material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding commence on the 27th day of August 1936, at 11:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said examiner may designate.

Upon the completion of testimony in this matter the examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 1724—Filed, August 13, 1936; 12:51 p. m.]

Saturday, August 15, 1936 *No. 111*

PRESIDENT OF THE UNITED STATES.

AMENDING REGULATIONS ON MIGRATORY GAME BIRDS

By the President of the United States of America

A PROCLAMATION

WHEREAS the Secretary of Agriculture, pursuant to section 3 of the Migratory Bird Treaty Act (40 Stat. 755; U. S. C., title 16, secs. 703–711), and having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds concluded August sixteenth, nineteen hundred and sixteen, has determined when, to what extent, and by what means it is compatible with the terms of said Convention to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, and export of such birds and parts thereof and their nests and eggs, and in accordance with such determinations has adopted and submitted to me regulations further amendatory of the regulations approved and proclaimed July 31, 1918, which said further amendatory regulations he, the said Secretary of Agriculture, has determined to be suitable regulations, permitting and governing the hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, and export of said birds and parts thereof and their nests and eggs, and which said further amendatory regulations are as follows:

Regulation 3, "Means by Which Migratory Game Birds May Be Taken", is amended to read as follows:

REGULATION 3.—MEANS BY WHICH MIGRATORY GAME BIRDS MAY BE TAKEN

The migratory game birds for which open seasons are specified in regulation 4 hereof may be taken during such respective open seasons with a shotgun only, not larger than no. 10 gage, fired from the shoulder, except as specifically permitted by regulations 7, 8, 9, and 10 hereof, but they shall not be taken with or by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than 3 shells, the magazine of which has not been cut off or plugged with a one-piece metal or wooden filler incapable of removal through the loading end thereof, so as to reduce the capacity of said gun to not more than 3 shells at one loading; they may be taken during the open season from the land or water, with the aid of a dog, and from a blind, boat, or floating craft except sinkbox (battery), power boat, sailboat, any boat under sail and any craft or device of any kind towed by power boat or sailboat; but nothing herein shall permit the taking of migratory game birds from or by means, aid or use of an automobile or aircraft of any kind.

Waterfowl (except for propagation, scientific, or banding purposes under permit pursuant to regulations 8 and 9 of these regulations) and mourning doves are not permitted to be taken by means, aid or use, directly or indirectly, of corn, wheat, oats, or other grain or products thereof, salt, or any kind of feed whatsoever, placed, deposited, distributed, scattered, or otherwise put out whereby such waterfowl or doves are lured, attracted, or enticed; and in the taking of waterfowl, the use, directly or indirectly, of live duck or goose decoys is not permitted; nor shall anything in these regulations be deemed to permit the use of aircraft of any kind, or of a power boat, sailboat, or other floating craft or device of any kind, for the purpose of concentrating, driving, rallying, or stirring up migratory waterfowl.

Regulation 4, "Open Seasons on and Possession of Certain Migratory Game Birds", is amended to read as follows:

REGULATION 4.—OPEN SEASONS ON AND POSSESSION OF CERTAIN MIGRATORY GAME BIRDS

Waterfowl (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, Ross's goose, wood duck, canvasback duck, redhead duck, ruddy duck, bufflehead duck, and swans), and coot, may be taken each day from 7 a. m. to 4 p. m., standard time, and rails and gallinules (other than coot), Wilson's snipe or jacksnipe, woodcock, mourning doves, and band-tailed pigeons from 7 a. m., standard time, to sunset each day during the open seasons prescribed therefor in this regulation, and they may be taken by the means and in the numbers permitted by regulations 3 and 5 hereof, respectively, and when so taken may be possessed in the numbers permitted by regulation 5 any day in any State, Territory, or District during the period constituting the open season where killed and for an additional period of 10 days next succeeding said open season, but no such bird shall be possessed in a State, Territory, or district at a time when such State, Territory, or District prohibits the possession thereof. Nothing herein shall be deemed to permit the taking of migratory birds on any reservation or sanctuary established under the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222) nor on any area of the United States set aside under any other law, proclamation, or Executive order for use as a bird, game, or other wildlife reservation, breeding grounds, or refuge except insofar as may be permitted by the Secretary of Agriculture under existing law, nor on any area adjacent to any such refuge when such area is designated as a closed area under the Migratory Bird Treaty Act.

Waterfowl (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, Ross's goose, wood duck, ruddy duck, canvasback duck, redhead duck, bufflehead duck, and swans), *Wilson's snipe or jacksnipe, and coot.*—The open seasons for waterfowl (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, Ross's goose, wood duck, ruddy duck, canvasback duck, redhead duck, bufflehead duck, and swans), Wilson's snipe or jacksnipe, and coot, in the several States and Alaska, shall be as follows, both dates inclusive:

In Maine, Michigan, Minnesota, Montana, New Hampshire, North Dakota, South Dakota, Vermont, and Wisconsin, October 10 to November 8;

In Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Massachusetts, Missouri, Nebraska, Nevada, New Mexico, New York, including Long Island, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Washington, West Virginia, and Wyoming, November 1 to November 30;

In Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, November 26 to December 25;

In Alaska north of the Alaska Range and the Ahklun Mountains, September 1 to September 30; south of the Alaska Range and the Ahklun Mountains west of the 141st meridian and east of False Pass at the tip of the Alaska Peninsula, September 16 to October 15; southeastern Alaska from the 141st meridian to Dixons Entrance, October 1 to October 30; and Islands of Unimak, Unalaska, Akutan, and Akun west of

Unimak Pass in the Aleutian Island group, November 1 to November 30.

Rails and gallinules (except coot).—The open season for rails and gallinules (except coot) shall be from September 1 to November 30, both dates inclusive, except as follows:

Washington and Massachusetts, October 1 to November 30;

New York, including Long Island, November 1 to November 30;

Wisconsin, October 10 to November 8;

Alabama, November 20 to January 31;

Connecticut, September 15 to November 30;

Louisiana, November 1 to January 31; and

District of Columbia, no open season.

Woodcock.—The open seasons for woodcock shall be as follows, both dates inclusive:

Wisconsin, October 17 to October 31;

That portion of New York lying north of the tracks of the main line of the New York Central Railroad extending from Buffalo to Albany, and north of the tracks of the main line of the Boston & Albany Railroad extending from Albany to the Massachusetts State line, and in Maine, New Hampshire, Vermont, Michigan, and North Dakota, October 1 to October 31;

That portion of New York lying south of the line above described, including Long Island, and in Delaware, New Jersey, Pennsylvania, Ohio, Indiana, and Iowa, October 15 to November 14;

Massachusetts, Rhode Island, and Connecticut, October 21 to November 20;

Missouri, November 10 to December 10;

Maryland, Virginia, West Virginia, Kentucky, Arkansas, and Oklahoma, November 15 to December 15; and

North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana, December 1 to December 31.

Doves.—The open seasons for mourning doves shall be as follows, both dates inclusive:

Arizona, Arkansas, California, Idaho, Illinois, Kansas, Kentucky, Minnesota, Missouri, New Mexico, Nevada, Oklahoma, Oregon, Tennessee, Utah, and Virginia, September 1 to November 15;

Delaware, September 15 to November 30;

Maryland, September 1 to September 30 and November 15 to December 31;

Florida (except in Dade, Broward, and Monroe Counties), and Louisiana, November 20 to January 31;

That portion of Florida comprising Dade, Broward, and Monroe Counties, October 1 to November 15;

North Carolina, September 1 to September 30 and December 20 to January 31;

Alabama, in the counties of Pickens, Tuscaloosa, Jefferson, Shelby, Talladega, Clay, Randolph, and all counties north thereof; Georgia, in the counties of Troup, Meriwether, Pike, Lamar, Monroe, Jones, Baldwin, Washington, Jefferson, Burke, and all counties north thereof; Mississippi, in the counties of Washington, Humphreys, Holmes, Attala, Winston, Noxubee, and all counties north thereof; and South Carolina, in the counties of Edgefield, Saluda, Newberry, Fairfield, Lancaster, Chesterfield, and all counties north thereof; September 1 to September 30 and December 20 to January 31;

Alabama, Georgia, Mississippi, and South Carolina, in the counties other than those aforesaid, November 20 to January 31;

That portion of Texas north or northerly of a line beginning at the Rio Grande west of Del Rio, thence to Del Rio, thence east along Southern Pacific Railway to San Antonio, thence along International Great Northern Railway to Austin, thence east along Houston and Texas Central Railway to Brazos River, thence north up Brazos River to where Beaumont branch of Gulf, Colorado & Santa Fe Railway crosses said river, thence east along Gulf, Colorado & Santa Fe Railway to intersection with Houston East & West Texas Railway at Cleveland, thence along Houston East & West Texas Railway to the Louisiana border except the counties of Bastrop, Brazos, Burleson, Fayette, Grimes, Lee, Limestone, Milam, Montgomery, Robertson, San Jacinto, Smith, Washington, and Wood, September 1 to October 31; and

That portion of Texas south of the above described boundaries and the counties hereinabove excepted, December 1 to January 16.

Band-tailed pigeons.—The open seasons for band-tailed pigeons shall be as follows, both dates inclusive: California, December 1 to December 15; Arizona and Oregon, October 16 to October 30; New Mexico, October 1 to October 15; and Washington, September 16 to September 30.

Regulation 5, "Daily Bag and Possession Limits on Certain Migratory Game Birds", is amended to read as follows:

REGULATION 5.—DAILY BAG AND POSSESSION LIMITS ON CERTAIN MIGRATORY GAME BIRDS

A person may take in any one day during the open seasons prescribed therefor in regulation 4 not to exceed the following numbers of migratory game birds, which numbers shall include all birds taken by any other person who for hire accompanies or assists him in taking such birds; and when so taken these may be possessed in the numbers specified as follows:

Ducks (except wood duck, canvasback duck, redhead duck, ruddy duck, and bufflehead duck).—Ten in the aggregate of all kinds, and any person at any one time may possess not more than 10 ducks in the aggregate of all kinds.

Geese and brant (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, and Ross's goose).—Four in the aggregate of all kinds, and any person at any one time may possess not more than 4 geese and brant in the aggregate of all kinds.

Rails and gallinules (except sora and coot).—Fifteen in the aggregate of all kinds, and any person at any one time may possess not more than 15 in the aggregate of all kinds.

Sora.—Twenty-five, and any person at any one time may possess not more than 25.

Coot.—Fifteen, and any person at any one time may possess not more than 15.

Wilson's snipe or jacksnipe.—Fifteen, and any person at any one time may possess not more than 15.

Woodcock.—Four, and any person at any one time may possess not more than 4.

Mourning doves.—Twenty, and any person at any one time may possess not more than 20.

Band-tailed pigeons.—Ten, and any person at any one time may possess not more than 10.

The possession limits hereinbefore prescribed shall apply as well to ducks, geese, brant, rails including coot and gallinules, Wilson's snipe or jacksnipe, woodcock, mourning doves, and band-tailed pigeons taken in Canada or other foreign country and brought into the United States, as to those taken in the United States.

Regulation 6, "Shipment, Transportation, and Possession of Certain Migratory Game Birds", is amended to read as follows:

REGULATION 6.—SHIPMENT, TRANSPORTATION, AND POSSESSION OF CERTAIN MIGRATORY GAME BIRDS

The migratory game birds of a species for which open seasons are prescribed by regulation 4 of these regulations, and parts thereof, legally taken may be transported in any manner in or out of the State where taken during the respective open seasons in that State, and when legally taken in and exported from Canada may be imported into the United States during the open season in the Province where taken, but not more than the number thereof that may be taken in 1 day by one person under these regulations shall be transported by one person in 1 calendar week out of the State where taken or from Canada into the United States; any such birds or parts thereof in transit during the open season may continue in transit such additional time immediately succeeding such open season, not to exceed 5 days, necessary to deliver the same to their destination, and may be possessed in any State, Territory, or District during the period constituting the open season where killed, and for an additional period of 10 days next succeeding said open season; and any package in which such birds or parts thereof are transported shall have the name and address of the

shipper and of the consignee and an accurate statement of the numbers and kinds of birds or parts thereof contained therein clearly and conspicuously marked on the outside thereof; but no such birds or parts thereof shall be transported from any State, Territory, or District to or through another State, Territory, or District or to or through a Province of the Dominion of Canada contrary to the laws of the State, Territory, or District in which they were taken or from which they are transported; nor shall any such birds or parts thereof be transported into any State, Territory, or District from another State, Territory, or District, or Province of the Dominion of Canada, or from any State, Territory, or District into any Province of the Dominion of Canada, at a time when any such State, Territory, or District, or Province of the Dominion of Canada, into which they are transported prohibits the possession or transportation thereof.

Migratory game birds imported from countries other than Canada.—Migratory game birds of a species for which an open season is prescribed by regulation 4, lawfully taken in and exported from a foreign country (other than Canada, for which provision is hereinbefore made), may be transported to and possessed in any State of the United States during the open season prescribed by regulation 4 in such State for that species and for a period of 10 days immediately succeeding such open season, and in the District of Columbia during the open season so prescribed for Maryland and 10 days thereafter, in numbers in any 1 calendar week not exceeding those permitted to be taken in 1 day by regulation 5, if transportation and possession of such birds is not prohibited by the laws of such State or District and if imported and transported in packages marked as hereinbefore provided.

Regulation 8, "Permits to Propagate and Sell Migratory Waterfowl", is amended to read as follows:

REGULATION 8.—PERMITS TO PROPAGATE AND SELL MIGRATORY WATERFOWL

1. A person in possession of a valid, subsisting permit issued to him by a State, on its part, authorizing him to take therein migratory waterfowl or their eggs for propagating purposes, may take such birds or their eggs in such State for such purposes when authorized by a permit issued to him by the Secretary, which permit may limit the species and numbers of birds or eggs that may be taken and the period during which and the locality where they may be taken. Both permits shall be carried on the person of the permittee when he is taking migratory waterfowl or their eggs and shall be exhibited to any person requesting to see them. Waterfowl and their eggs so taken may be possessed by the permittee and may be sold and transported by him for propagating purposes to any person holding a permit issued by the Secretary in accordance with the provisions of this regulation.

2. A person in possession of a valid, subsisting permit issued to him by a State, on its part, authorizing him to possess, buy, sell, and transport migratory waterfowl and their increase and eggs for propagating purposes, may possess, buy, sell, and transport such waterfowl and their increase and eggs for such purposes when authorized by a permit issued to him by the Secretary; and migratory waterfowl, except the birds taken under paragraph 1 of this regulation, so possessed may be killed by him at any time and in any manner (except that they may be killed by shooting only during the open season for waterfowl in the State where killed), and the carcasses, with heads and feet attached thereto, may be sold and transported by him to any person for actual consumption, or to the keeper of a hotel, restaurant, or boarding house, a retail dealer in meat or game, or a club, for sale or service to their patrons, who may possess such carcasses for actual consumption without a permit, but no such birds that have been killed shall be bartered, sold, or bought unless each bird before attaining the age of 4 weeks shall have had removed from the web of one foot a portion thereof in the form of a V large enough to make a permanent, well-defined mark, which shall be sufficient to identify it as a bird raised in domestication under a permit.

3. Applications for permits shall be addressed to the Secretary of Agriculture, Washington, D. C., and must state the name and address of the applicant; the place where the propagating project is to be carried on; the area to be used in the project; the facilities the applicant has for properly caring for the waterfowl; the number of each species of waterfowl in his possession, and how, when, and where they were acquired; and, if the application is for a permit to take migratory waterfowl or their eggs, the species and number of each species or eggs of each species proposed to be taken, and the specific locality where it is proposed to take them.

4. Every permittee shall keep books and records that shall correctly set forth the number of each species of waterfowl and their eggs taken by him, if he holds a permit to take waterfowl, the number of each species of waterfowl and their eggs possessed on the date of application for a permit to possess, sell, purchase, or transport such waterfowl, and on the 1st day of each September next following, and for each 12-month period thereafter during the life of the permit, the number of each species reared and killed, the number of each species and their eggs sold and transported, the manner in which such waterfowl and eggs were transported, the name and address of each person from or to whom waterfowl and eggs were purchased or sold, the number and species so purchased or otherwise acquired or sold and whether sold alive or dead, and the date of each transaction. A report correctly setting forth this information for the preceding 12-month period shall be filed annually with the Secretary on or before September 1.

5. A permittee shall at all reasonable hours allow any authorized employee of the United States Department of Agriculture to enter and inspect the premises where operations are being carried on under this regulation and to inspect the books and records relating thereto.

6. No permit issued by the Secretary authorizes the taking, possession, sale, purchase, exchange, or transportation of migratory waterfowl unless the permittee has in his possession while exercising any such privilege a valid, subsisting permit of equivalent tenor issued to him by the State in which he proposes to operate. Permits are not transferable and are revocable at any time in the discretion of the Secretary. A permit revoked by the Secretary shall be surrendered to him by the person to whom it was issued on demand of any employee of the United States Department of Agriculture authorized to enforce the provisions of the Migratory Bird Treaty Act.

7. A person may possess and transport, subject to the provisions of paragraph 8 of this regulation, for his own use, without a permit, live migratory waterfowl now lawfully possessed or hereafter lawfully acquired by him, but he may not purchase or sell such waterfowl without a permit. A State or municipal game farm or city park may possess, purchase, sell, and transport live migratory waterfowl without a permit, but no such waterfowl shall be purchased from or sold to a person (other than such State or municipal game farm or city park) unless he has a permit. Feathers of wild ducks and wild geese lawfully killed, and feathers of such birds seized and condemned by Federal or State game authorities, may be possessed, bought, sold, and transported for use in making fishing flies, bed pillows, and mattresses, and for similar commercial purposes, but not for millinery or ornamental purposes.

8. Every package in which migratory waterfowl or parts or eggs thereof are transported by any means whatever from one State, Territory, or the District of Columbia to, into, or through another State, Territory, or the District of Columbia or to or from a foreign country shall be plainly and clearly marked or labeled on the outside thereof to show the name and address of the consignor and consignee, the contents of the package by number and kind, the number of the permit under authority of which it is transported, and the purpose for which the waterfowl or eggs are being transported. Every package in which migratory waterfowl or their eggs are shipped wholly within a State or Territory for propagating purposes shall be plainly and clearly marked or labeled on the outside thereof in the manner above prescribed.

Regulation 9, "Permits to Collect Migratory Birds for Scientific Purposes", is amended to read as follows:

REGULATION 9.—PERMITS TO COLLECT MIGRATORY BIRDS FOR SCIENTIFIC PURPOSES

A person in possession of a valid, subsisting permit issued to him by a State, on its part, authorizing him to take therein migratory birds or their nests or eggs for scientific purposes may take such birds or their nests or eggs in such State for such purposes when authorized by a permit issued to him by the Secretary. Both permits shall be carried on his person when he is collecting migratory birds thereunder and shall be exhibited to any person requesting to see them; but nothing herein shall be deemed to permit the taking of any migratory game bird during the open season therefor in any manner or by any means or at any time of day not permitted by regulations 3 and 4 of these regulations.

Application for a permit shall be addressed to the Secretary of Agriculture, Washington, D. C., and must state the name and address of the applicant, his age, the State or Territory in which specimens are proposed to be taken, the purpose for which they are intended, information sufficient to show that specimens permitted to be taken will be devoted to scientific purposes, and the names and addresses of at least two well-known ornithologists, principals or superintendents of educational or zoological institutions, officials or members of zoological or natural history organizations, or instructors in zoology in high schools, colleges, or universities, from whom may be obtained information respecting the applicant's status as a scientific investigator. The applicant must furnish such other information touching his fitness to be entrusted with a permit as may be called for by the Secretary.

A permit may limit the number and species of migratory birds or their nests or eggs that may be taken thereunder, and the places where, time when, and means by which they may be taken, and may authorize the holder thereof, when possessed of an equivalent State permit, to possess, buy, sell, exchange, and transport migratory birds and their nests and eggs for scientific purposes; or it may limit the holder to one or more of these privileges. Public museums, zoological parks and societies, and public scientific and educational institutions may possess, buy, sell, exchange, and transport migratory birds and their nests and eggs for scientific purposes, without a permit, but no specimens shall be taken without a permit or purchased from or exchanged with a person not authorized by a permit to sell or exchange them. The plumage and skins of migratory game birds legally taken may be possessed and transported by a person without a permit.

A taxidermist, when authorized by a permit issued by the Secretary, may possess any migratory bird delivered to him for mounting or like preparation by any person who has lawfully taken or lawfully possesses such bird, and may transport such specimen in consummation of such purpose when likewise authorized by the State in which such permittee is operating. Every such permittee shall keep books and records correctly setting forth the name and address of each person delivering each specimen of migratory bird to him, together with the name of each species, the date of delivery, the disposition of each specimen, and the date thereof, and such books and records shall be available for inspection at all reasonable hours on request of any authorized representative of the Department of Agriculture.

No permit issued by the Secretary authorizes the taking, possession, sale, purchase, exchange, or transportation of any migratory bird unless the permittee has in his possession while exercising any such privilege a valid, subsisting permit of equivalent tenor issued to him by the State in which he proposes to operate. Permits are not transferable and are revocable at any time in the discretion of the Secretary. A permit revoked by the Secretary shall be surrendered to him by the person to whom issued, on demand of any employee of the United States Department of Agriculture authorized to enforce the provisions of the Migratory Bird Treaty Act. A person holding a permit under this regulation shall report annually to the Secretary, on or before the 10th day of January, the number of birds or nests or eggs of each species taken, bought, sold, received, possessed, mounted, exchanged, or transported during the preceding 12 months, and failure to make such report will be cause for revocation of the permit.

Every package in which migratory birds or their nests or eggs are transported by any means whatever for scientific purposes, from one State, Territory, or the District of Columbia, to, into, or through another State, Territory, or the District of Columbia, or to or from a foreign country shall be plainly and clearly marked or labeled on the outside thereof to show the name and address of consignor and consignee, the contents of the package by number and kind, the number of the permit under authority of which it is transported, and that the specimens contained therein are for scientific purposes. Every package in which migratory birds or their nests or eggs are shipped wholly within a State or Territory, for scientific purposes, shall be plainly and clearly marked or labeled on the outside thereof in the manner above prescribed.

AND WHEREAS upon consideration it appears that approval of the foregoing amendatory regulations will tend to effectuate the purposes of the aforesaid Migratory Bird Treaty Act and result in reducing the annual kill of migratory game birds:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby approve and proclaim the foregoing amendatory regulations.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 12 day of August, in the year of our Lord nineteen hundred and thirty-six, and of the Independence of the United States of America the one hundred and sixty-first.

[SEAL]

By the President FRANKLIN D ROOSEVELT

WILLIAM PHILLIPS,
Acting Secretary of State

[No. 2194]

[F. R. Doc. 1730—Filed, August 14, 1936; 10:30 a. m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

REGULATIONS 95 RELATING TO THE TAX ON UNJUST ENRICHMENT

UNDER TITLE III OF THE REVENUE ACT OF 1936

Introductory

These regulations deal with the tax imposed by Title III of the Revenue Act of 1936. The regulations have been divided into chapters. The material to be found in each chapter is shown in the table of contents.

Chapter I defines terms that are used in Title III and in these regulations. (Page 1077.)

Chapter II deals with the nature, scope, and imposition of the tax. (Page 1079.)

Chapter III deals with returns, records, and payment of the tax. (Page 1087.)

Chapter IV deals with miscellaneous provisions. (Page 1090.)

The applicable provisions of the Act, as well as certain applicable provisions of internal-revenue laws, will be found in the appropriate places in, and are to be read in connection with, these regulations.

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CHAPTER II—NATURE, SCOPE, AND IMPOSITION OF TAX

CHAPTER III—RETURNS, RECORDS, AND PAYMENT OF TAX

CHAPTER IV—MISCELLANEOUS PROVISIONS

CHAPTER I

DEFINITIONS

Section 1001 of the Act

(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate a partnership, or a corporation.

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(3) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(4) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

* * * * *

(10) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(11) The term "Secretary" means the Secretary of the Treasury.

(12) The term "Commissioner" means the Commissioner of Internal Revenue.

(13) The term "collector" means collector of internal revenue.

* * * * *

(b) The terms "includes" and "including", when used in a definition contained in this Act, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

Section 501 (f) of the Act

(f) As used in this section—

(1) The term "margin" means the difference between the selling price of articles and the cost thereof, and the term "average margin" means the average difference between the selling price and the cost of similar articles sold by the taxpayer during his six taxable years preceding the initial imposition of the Federal excise tax in question, except that if during any part of such six-year period the taxpayer was not in business, or if his records for any part of such period are so inadequate as not to furnish satisfactory data, the average margin of the taxpayer for such part of such period shall, when necessary for a fair comparison, be deemed to be the average margin, as determined by the Commissioner, of representative concerns engaged in a similar business and similarly circumstanced.

(2) The term "cost" means, in the case of articles manufactured or produced by the taxpayer, the cost to the taxpayer of materials entering into the articles; or, in the case of articles purchased by the taxpayer for resale, the price paid by him for such articles (reduced in both cases by the amount for which he is reimbursed by his vendor).

(3) The term "selling price" means selling price minus (A) amounts subsequently paid or credited to the purchaser on or before June 1, 1936, or thereafter in the bona fide settlement of a written agreement entered into on or before March 3, 1936, as reimbursement for the amount included in such price on account of a Federal excise tax; and minus (B) the allocable portion of any professional fees and expenses of litigation incurred in securing the refund or preventing the collection of the Federal excise tax, not to exceed 10 per centum of the amount of such tax.

Section 501 (j) of the Act

(j) As used in this section—

(1) The term "Federal excise tax" means a tax or exaction with respect to the sale, lease, manufacture, production, processing, ginning, importation, transportation, refining, recovery, or holding for sale or other disposition, of commodities or articles, provided for by any Federal statute, whether valid or invalid, if denominated a "tax" by such statute. A Federal excise tax shall be deemed to have been imposed with respect to an article if it was imposed with respect to (or with respect to the processing of) any commodity or other article, from which such article was processed.

(2) The term "date of the termination of the Federal excise tax" means, in the case of a Federal excise tax held invalid by a decision of the Supreme Court, the date of such decision.

(3) The term "refund or credit" does not include a refund or credit made in accordance with the provisions and limitations set forth in Title VII of this Act, or in section 621 (d) of the Revenue Act of 1932.

(4) The term "tax adjustment" means a repayment or credit by the taxpayer to his vendee of an amount equal to the Federal excise tax with respect to an article (less reasonable expense to the vendor in connection with the nonpayment or recovery by him of the amount of such tax and in connection with the making of such repayment or credit) if such repayment or credit is made on or before June 1, 1936, or thereafter in the bona fide settlement of a written agreement entered into on or before March 3, 1936.

(5) The term "taxpayer" means a person subject to a tax imposed by this section.

ARTICLE 1. *Definitions.*—As used in these regulations—

(a) *General.*—The terms defined in the above provisions of law shall have the meanings so assigned to them.

(b) *Title III.*—The term "Title III" means Title III of the Revenue Act of 1936.

(c) *Tax.*—The term "tax" means any tax imposed by Title III.

(d) *Agricultural Adjustment Act.*—The term "Agricultural Adjustment Act" means the Agricultural Adjustment Act as originally enacted and the amendments thereto.

(e) *Act.*—The term "Act" means the Revenue Act of 1936.

(f) *Paid, incurred, accrued.*—The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxpayer's net income is computed under the provisions of the applicable Revenue Act.

(g) *Selling price.*—The term "selling price" means the price received by the taxpayer from his vendee for the articles in question, less:

(A) Any amount (except in computing aggregate selling price under section 501 (e) (2)) paid or credited by the taxpayer to the purchaser for the amount of Federal excise taxes which were included in such price, if such payment or credit was made subsequent to the sale and (1) on or before June 1, 1936, or, (2) at any time after June 1, 1936, in the bona fide settlement of a written agreement entered into on or before March 3, 1936; and

(B) The allocable portion of any professional fees and expenses of litigation paid or incurred by the taxpayer in securing the refund or in preventing the collection of the Federal excise tax imposed with respect to the articles, not exceeding 10 per centum of the amount of such tax which was refunded or the collection of which was enjoined.

"Price received by the taxpayer" means the invoice price, less trade or other discounts (except strictly cash discounts approximating a fair interest rate), including transportation and other charges incurred in delivering the goods, provided a consistent practice is followed by the taxpayer with respect to such items, in all computations under Title III.

A written agreement within the meaning of section 501 (f) (3) and paragraph (A), above, means a promise, even though not legally enforceable, communicated in writing on or before March 3, 1936 by the taxpayer to the purchaser in question, to pay or credit the amount of reimbursement claimed as a deduction in computing "selling price."

Only amounts of reimbursement specified in (A), above, actually paid, credited, or accrued (i. e., the legal liability for payment or credit to purchasers having been fixed), before the filing of the return of the tax, may be deducted from the "selling price" of articles reported in such return. If and when other amounts of reimbursement are actually paid or credited to purchasers after the return is filed, the tax, if any, shall be redetermined accordingly (see article 24 relating to redetermination of tax).

(h) *Cost.*—The term "cost" means (1) the cost to the taxpayer of the materials entering into an article manufactured or produced by the taxpayer, or (2) the price paid by the taxpayer for an article if the article was purchased by him for resale, less in the case of either (1) or (2) the amount for which the taxpayer is reimbursed by the person who sold him such materials or article. (See, however, article 13, Method I, paragraph (2) (A), and Method II, paragraph (2).)

In determining "cost to the taxpayer" and "price paid by the taxpayer" there may be included transportation and other charges incurred in acquiring such materials or articles, provided a consistent practice is followed by the taxpayer with respect to such items in all computations under Title III.

(i) *Margin.*—The term "margin" means the difference between the "selling price" of articles and the "cost" thereof. (For definitions of "selling price" and "cost" see sections 501 (f) (3) and 501 (f) (2) and paragraphs (g) and (h), respectively, of this article.)

(j) *Average margin.*—(1) The term "average margin" means the average difference between the "selling price" and the "cost" of similar articles sold by the taxpayer during his six taxable years preceding the initial imposition of the Federal excise tax in question. (See section 501 (f) (3) and paragraph (g) of this article for definition of "selling price"; and section 501 (f) (2) and paragraph (h) of this article for definition of "cost.")

For example, the date of the initial imposition of the processing tax on wheat was July 9, 1933; hence, the six taxable years preceding the date of the initial imposition of such tax, in the case of a taxpayer on a calendar year basis for filing income tax returns, would be the calendar years 1927 to 1932, inclusive.

For the purposes of the computation under section 501 (e) (1), the average margin is determined for articles sold by the taxpayer during the six-year period, which are similar to articles with respect to which the shift of Federal excise tax burden is being determined. A similar article is an article which resembles in all respects another article, or, if the taxpayer had no articles resembling in all respects such other article, the similar article is one which most nearly resembles such other article in all material respects (such as quality, weight, size, content, and use).

Under section 501 (e) (2), however, the average margin is determined for all articles processed from any article or commodity of the same kind as a commodity or article with respect to which the Federal excise tax in question was imposed. For example, in determining the extent to which the burden of the processing tax on cotton was shifted, the average margin is determined for all cotton articles sold during the six-year period, without regard to whether they are similar to the particular cotton articles with respect to which the shift of Federal excise tax burden is being determined.

(See article 13 relating to computation of extent to which burden of Federal excise tax was shifted.)

(2) *Determination of average margin by the Commissioner.*—If the taxpayer during any part of any of the said six taxable years was not in business, or if his records for any part of said six taxable years are so inadequate as not to furnish satisfactory data for the determination of the average margin of the taxpayer, the average margin of the taxpayer for the time during which he was not in business, or for which his records are inadequate, shall (if the Commissioner finds it necessary for a fair comparison), be deemed to be the average margin which the Commissioner determines is the average margin of representative concerns engaged in a similar business and similarly circumstanced to the taxpayer (such as the taxpayer's predecessor in the business).

If the taxpayer during any portion of the six-year period was not in business, or if his records are so inadequate as not to furnish satisfactory data for the determination of the "average margin", the taxpayer shall so state in his return. Such taxpayer may report as the "average margin" for the articles in question for such portion of the six-year period, the average margin of representative concerns similarly circumstanced (for example, the taxpayer's predecessor in the business). In such case, however, the taxpayer shall annex to his return a schedule stating (1) the article for which such average margin is reported; (2) the name and address of such representative concern; and (3) the reasons for considering such concern to be similarly circumstanced to the taxpayer. The Commissioner, upon the audit of such return, may approve or disapprove the average margin thus determined. In case of disapproval the Commissioner shall determine the average margin of the representative concerns applicable to the taxpayer, unless he shall consider it unnecessary to do so in order to make a fair comparison.

The taxpayer may determine the average margin for the article in question (without reference to representative concerns) for such portion of the six-year period for which his records are adequate to furnish satisfactory data, if the taxpayer deems such determination of such average margin to be sufficient for a fair comparison. In such case the taxpayer shall annex to his return a statement of the portion of the six-year period for which his records are inadequate to establish the average margin and shall set forth the reasons for considering the average margin determined from his records a fair basis for comparison. The Commissioner, upon audit of such return, may approve or disapprove the average margin thus determined, and may require the determination of the average margin of a representative concern for the period in question. (See article 16 relating to rebuttal.)

(k) *Tax adjustment.*—The term "tax adjustment" means a payment or credit by the taxpayer to his vendee of the full amount of the Federal excise tax which was imposed with respect to an article sold by the taxpayer to such vendee *less* the allocable portion of the reasonable professional fees and other expenses paid or incurred by the taxpayer in connection with the nonpayment or recovery by the taxpayer of such amount of Federal excise tax or in connection with the making of such repayment or credit. To constitute a "tax adjustment" the repayment or credit must have been made by the taxpayer (1) on or before June 1, 1936, or (2) at any

time after June 1, 1936, in the bona fide settlement of a written agreement entered into on or before March 3, 1936. A written agreement within the meaning of section 501 (j) (4) and this paragraph, means a promise, even though not legally enforceable, communicated in writing on or before March 3, 1936, by the taxpayer to the vendee in question, to make the repayment or credit. The term "tax adjustment" does not apply to the repayment or credit of an amount of Federal excise tax with respect to an article which is less than the full amount of such excise tax (minus the reasonable fees and expenses referred to above).

(See article 12 relating to exclusion of net income from transactions with respect to which a "tax adjustment" has been made.)

(l) *Date of termination of Federal excise tax.*—The term "date of the termination of the Federal excise tax" means, in the case of a Federal excise tax held invalid by a decision of the Supreme Court, the date of such decision. The Agricultural Adjustment Act was held invalid by a decision of the Supreme Court of the United States dated January 6, 1936, and that date is, therefore, the date of the termination of the Federal excise taxes imposed by that Act.

(m) *Federal excise tax.*—The term "Federal excise tax" means a tax or exaction with respect to the sale, lease, manufacture, production, processing, ginning, importation, transportation, refining, recovery, or holding for sale or other disposition, of commodities or articles, provided for by any Federal statute, whether valid or invalid, if denominated a "tax" by such statute. A Federal excise tax shall be deemed to have been imposed with respect to an article if it was imposed with respect to (or with respect to the processing of) any commodity or other article, from which such article was processed.

Federal statutes providing for a tax or exaction with respect to the above transactions include, among others, the following:

Agricultural Adjustment Act, relating to taxes on certain agricultural commodities.

Bankhead Cotton Act, as amended, relating to tax on ginning of cotton.

Kerr Tobacco Act, as amended, relating to tax on sale of tobacco.

Section 602½ of the Revenue Act of 1934, as amended, relating to processing tax on certain oils.

Sections 604 and 605 of the Revenue Act of 1934, as amended, relating to taxes on sale, refining, or processing of crude petroleum and production or recovery of gasoline from natural gas.

Title IV of the Revenue Act of 1932, as amended, relating to taxes on sales of certain articles by the manufacturer, producer, or importer.

Bituminous Coal Conservation Act of 1935, relating to tax on sale of coal at the mine.

(n) *Refund or credit.*—The term "refund or credit" means refund or credit from the United States of any Federal excise tax erroneously or illegally collected from the taxpayer. The term does not include any refund or credit to the taxpayer under Title IV or Title VII of the Revenue Act of 1936; any refund or credit to the taxpayer under section 621 (d) of the Revenue Act of 1932 of any amount collected as manufacturer's excise tax under Title IV of the Revenue Act of 1932; or any refund under section 15, 16, or 17 of the Agricultural Adjustment Act.

CHAPTER II

NATURE, SCOPE, AND IMPOSITION OF TAX

Section 501 (a) of the Act

(a) The following taxes shall be levied, collected, and paid for each taxable year (in addition to any other tax on net income), upon the net income of every person which arises from the sources specified below:

(1) A tax equal to 80 per centum of that portion of the net income from the sale of articles with respect to which a Federal excise tax was imposed on such person but not paid which is attributable to shifting to others to any extent the burden of such Federal excise tax and which does not exceed such person's net income for the entire taxable year from the sale of articles with respect to which such Federal excise tax was imposed.

(2) A tax equal to 80 per centum of the net income from reimbursement received by such person from his vendors of amounts representing Federal excise-tax burdens included in prices paid by such person to such vendors, to the extent that such net income does not exceed the amount of such Federal excise-tax burden which such person in turn shifted to his vendees.

(3) A tax equal to 80 per centum of the net income from refunds or credits to such person from the United States of Federal excise taxes erroneously or illegally collected with respect to any articles, to the extent that such net income does not exceed the amount of the burden of such Federal excise taxes with respect to such articles which such person shifted to others.

ART. 2. *Nature of tax.*—The tax is a tax on the net income of every person arising from certain sources, and is in addition to any other tax on net income. (See article 23 relating to credits.)

ART. 3. *Sources of the net income with respect to which the tax is imposed.*—The tax is imposed on the net income of the taxpayer for the taxable year arising from each of the following sources: (1) the sale of articles or services with respect to which a Federal excise tax was imposed but not paid; (2) reimbursement to the taxpayer from his vendors of amounts of Federal excise taxes which were included in prices which the taxpayer paid to such vendors; (3) refunds or credits from the United States of amounts of Federal excise taxes erroneously or illegally collected from the taxpayer (see article 1 (n) for definition of "refund or credit").

ART. 4. *Measure and rate of tax.*—The tax is imposed at the rate of 80 percent. It is measured by the amount of net income arising from each source specified in article 3, not in excess of (with respect to such source) the amount of Federal excise tax burden shifted to others. (See articles 11 and 14.)

Section 504 of the Act

The taxes imposed by this title shall apply only with respect to taxable years ending during the calendar year 1935 and to subsequent taxable years.

ART. 5. *Taxable years with respect to which the taxes are applicable.*—The taxes imposed by Title III are imposed with respect to any taxable year ending during the calendar year 1935 and subsequent taxable years. Such taxable years include (1) the calendar year 1935 and each subsequent calendar year, (2) a fiscal year ending in 1935 and each subsequent fiscal year and (3) any period of less than twelve months ending after December 31, 1934, for which under the provisions of Title I of the applicable Revenue Act, a return of net income was required to be filed. Thus if the taxpayer determined net income under Title I of the Revenue Act of 1934 on the basis of a fiscal year June 1 to May 31, the taxes imposed by Title III are applicable to the fiscal year June 1, 1934, to May 31, 1935, and to subsequent fiscal years. (See article 27 relating to persons required to file returns.)

ART. 6. *Computation of net income subject to tax—General.*—The computation of the net income subject to the tax imposed by Title III involves the ascertainment (1) of the amount of net income arising from each source specified in article 3, and (2) of the extent to which, with respect to each source, the burden of Federal excise taxes was shifted by the taxpayer to others. The tax is applicable to the first of these amounts to the extent that it does not exceed the second, except that the amount of net income taxable under section 501 (a) (1) is subject to the further limitation that it shall not exceed the entire net income for the taxable year from the sale of articles or services with respect to which the Federal excise tax was imposed. (See article 11 and also article 14 relating to limitation on extent to which Federal excise tax burden was shifted.)

Example 1: A is a processor who failed to pay the processing tax with respect to part of his processing of hogs during the taxable year. His net income for the taxable year from the sale, prior to January 6, 1936, of all articles processed from hogs with respect to which the processing tax was not paid was $500. The amount of processing tax imposed with respect to such articles, but not paid, which was shifted to others, was $700. A's net income for the entire taxable year

from the sale of all articles processed from hogs (whether the processing tax with respect thereto was paid or not) was $600. The tax imposed under section 501 (a) (1) is equal to 80 percent of $500.

Example 2: B is a processor who failed to pay the processing tax with respect to part of his processing of hogs during the taxable year. His net income for the taxable year from the sale, prior to January 6, 1936, of all articles processed from hogs with respect to which the processing tax was not paid was $1,000. The amount of processing tax imposed with respect to such articles, but not paid, which was shifted to others, was $700. B's net income for the entire taxable year from the sale of all articles processed from hogs was $600 (whether the processing tax with respect thereto was paid or not). The tax imposed under section 501 (a) (1) is equal to 80 percent of $600.

Example 3: C is a processor who failed to pay the processing tax with respect to part of his processing of hogs during the taxable year. His net income for the taxable year from the sale, prior to January 6, 1936, of all articles processed from hogs with respect to which the processing tax was not paid was $1,000. The amount of processing tax imposed with respect to such articles, but not paid, which was shifted to others, was $700. C's net income for the entire taxable year from the sale of all articles processed from hogs was $800 (whether the processing tax with respect thereto was paid or not). The tax imposed under section 501 (a) (1) is equal to 80 percent of $700.

Example 4: D is a wholesaler who received $2,000 during the taxable year as reimbursement from his vendors of amounts representing processing tax burdens included in the purchase price of articles sold by D on or before January 6, 1936. The amount of the processing tax burden with respect to these articles which was shifted by D was $1,900. The tax imposed under section 501 (a) (2) is equal to 80 percent of $1,900.

In the following articles, 7 to 12, inclusive, the computation of the net income from the sources specified in paragraphs (1), (2), and (3) of section 501 (a) is considered.

Section 501 (c) of the Act

(c) The net income from the sales specified in subsection (a) (1) shall be computed as follows:

(1) From the gross income from such sales there shall be deducted the allocable portion of the deductions from gross income for the taxable year which are allowable under the applicable Revenue Act; or

(2) If the taxpayer so elects by filing his return on such basis, the total net income for the taxable year from the sale of all articles with respect to which each Federal excise tax was imposed (computed by deducting from the gross income from such sales the allocable portion of the deductions from gross income which are allowable under the applicable Revenue Act, but without deduction of the amount of such Federal excise tax which was paid or of the amount of reimbursement to purchasers with respect to such Federal excise tax) shall be divided by the total quantity of such articles sold during the taxable year and the quotient shall be multiplied by the quantity of such articles involved in the sales specified in subsection (a) (1). Such quantities shall be expressed in terms of the unit on the basis of which the Federal excise tax was imposed.

For the purposes of this section the proper apportionment and allocation of deductions with respect to gross income shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

ART. 7. *Computation of net income from sales of articles with respect to which a Federal excise tax was imposed but not paid.*—Two methods are provided for computing the net income from the sales of articles with respect to which a Federal excise tax was imposed but not paid. The first method is provided in section 501 (c) (1) and the second is that provided in section 501 (c) (2), either of which may be applied by the taxpayer if he so elects by filing his return on such basis. Such election by the taxpayer precludes the application of the alternative method. (For the computation of the extent to which the burden of the Federal excise tax was shifted to others, see article 13.)

Method I—Net Income Computed Under Section 501 (c) (1)

(a) In computing net income under section 501 (c) (1) the gross income for the taxable year from the sale of articles with respect to which each Federal excise tax was imposed but not paid is first computed. "Gross income" means "total sales" less "cost of goods sold." In computing total sales there shall be excluded all income from the sales of articles specified in section 501 (b). (See article 12 relating to exclusions from net income.)

(b) From the gross income computed as provided in paragraph (a), above, there shall be deducted that portion of the deductions allowable under section 23 of the Revenue Act applicable for the taxable year, which are allocable to the articles included in computing gross income under paragraph (a), above, and which were not deducted in computing gross income under such paragraph. (See article 10 relating to the apportionment and allocation of deductions.)

Method II—Net Income Computed Under Section 501 (c) (2)

(a) There is first computed gross income for the entire taxable year from the sales of all articles of the class with respect to which each Federal excise tax was imposed, whether or not such tax was paid. The term "gross income" as here used means "total sales" less "cost of goods sold." There shall not be excluded from such gross income, income derived from the sales of articles specified in section 501 (b). Thus, in the case of wheat which was subject to a processing tax under the Agricultural Adjustment Act, there shall be included gross income for the taxable year from all sales during such taxable year of articles processed from wheat, without regard to the date of processing or the fact that the sales were made after January 6, 1936, the date of the termination of the processing tax. (See article 12 relating to exclusions from gross income.)

(b) From the gross income computed as provided in paragraph (a), above, there shall be deducted that portion of the deductions allowable under section 23 of the Revenue Act applicable for the taxable year, which are allocable to the articles included in computing gross income under paragraph (a), above, and which were not deducted in computing gross income under such paragraph. However, no deduction is allowable for the amount of the Federal excise tax in question (whether or not paid), or for any amount of reimbursement made, with respect to such Federal excise tax, by the taxpayer to purchasers. (See article 10 relating to the apportionment and allocation of deductions.)

(c) The net income for the taxable year from the sale of all articles with respect to which the Federal excise tax was imposed (gross income under paragraph (a), above, less deductions under paragraph (b), above) shall be divided by the total number or quantity of articles included in the computation of gross income. The result, or quotient, shall then be multiplied by the number or quantity of such articles which were sold during the taxable year and with respect to which a Federal excise tax was imposed on the taxpayer but not paid. In making this computation the articles specified in section 501 (b) shall be excluded. (See article 12, exclusions from net income.)

The number or quantity of articles used as the divisor or multiplier, pursuant to the preceding paragraph, shall be expressed in terms of the unit with respect to which the Federal excise tax in question was imposed. For example, if such articles were processed or manufactured from cotton, the unit with respect to which the Federal excise tax was imposed (i. e., the processing tax on cotton, imposed under the Agricultural Adjustment Act) was the net weight, in pounds, of lint cotton used in the manufacture of the articles. Consequently, the number or quantity of articles processed from cotton shall be expressed in terms of the total number of pounds of cotton entering into the manufacture of the articles. (See articles 17 to 19, inclusive.)

SECTION 501 (d) OF THE ACT

(d) The net income from reimbursement or refunds specified in subsection (a) (2) or (3) shall be computed as follows: From the total payment or accrual (1) of reimbursement to the taxpayer from vendors for amounts representing Federal excise tax burdens included in prices paid by the taxpayer to such vendors or (2) of refunds or credits to the taxpayer of Federal excise taxes erroneously or illegally collected, there shall be deducted the expenses and fees reasonably incurred in obtaining such reimbursement or refunds.

ART. 8. *Computation of net income from reimbursements.*—(a) There is first computed the total payment or accrual to the taxpayer during the taxable year of reimbursement from vendors for amounts representing Federal excise tax burdens included in prices paid by the taxpayer to his vendors. In making such computation, there shall be included any amount paid or accrued to the taxpayer as reimbursement from vendors with respect to any amount of Federal excise tax reflected in prices paid by the taxpayer to such vendors. However, there shall be excluded any reimbursement with respect to any article specified in section 501 (b). (See article 12 relating to exclusions from net income; also article 13, Method I, paragraph (2) (A) and Method II, paragraph (2).)

(b) From the income from reimbursements as computed above, there shall be deducted the allocable expenses and fees reasonably incurred in obtaining such reimbursements.

(For computation of extent to which the burden of Federal excise taxes was shifted to others, see article 13.)

ART. 9. *Computation of net income from refunds or credits.*—(a) There is first computed the amount of refunds or credits during the taxable year to the taxpayer from the United States of Federal excise taxes erroneously or illegally collected with respect to any articles. (See article 1 (n) for definition of "refund or credit.") In making such computation there shall be excluded any amounts of refunds or credits with respect to articles specified in section 501 (b). (See article 12 relating to exclusions from net income.)

(b) From the income from refunds or credits computed as above, there shall be deducted the allocable expenses and fees reasonably incurred by the taxpayer in obtaining such refunds or credits.

(For the computation of the extent to which the burden of Federal excise taxes was shifted to others, see article 13.)

ART. 10. *Apportionment and allocation of deductions in computing net income.*—No general rule may be stated for ascertaining the proper proportion of the allowable deductions from gross income which are deductible pursuant to sections 501 (c) (1) and 501 (c) (2) of the Act. The statutory term "gross income" means the gross profit from sales ascertained by deducting from the amount of the "sales" the "cost of goods sold." In determining the gross income from sales, no deductions should be made for such items as selling expense, losses, interest on borrowed money, general administrative expense or items not ordinarily used in computing the "cost of goods sold", and certain items of depreciation and taxes. However, it is recognized that no uniform method of accounting can be prescribed for all taxpayers and the law contemplates that each taxpayer shall adopt such forms and system of accounting as shall clearly reflect his income. Accordingly, if the taxpayer, as a consistent practice, has charged some of the above items to "cost of goods sold" such practice will not be disturbed unless the method of computing the "cost of goods sold" does not reflect the true net income, in which case proper adjustment will be required.

The allowable deductions from gross income (under the Revenue Act applicable to the taxable year in question) which appertain to the articles with respect to which the computation is being made and have not been included in computing the "cost of goods sold" shall be allocated and apportioned as follows:

(1) Deductions specifically applicable to particular items of gross income shall be allocated to such items;

(2) No rule may be stated for allocating or apportioning the deductions which cannot be allocated under paragraph (1), above, that would be applicable in all cases. The proper allocation of these deductions will depend upon the facts and circumstances in each case. However, it may be stated that such deductions may ordinarily be apportioned ratably over all items of gross income.

The taxpayer should include as a part of his return a statement explaining the manner in which he ascertained and reported in the return the "cost of goods sold", and showing the method of allocation and apportionment of the deductions allowable under the applicable Revenue Act.

ART. 11. *Computation of net income for entire taxable year from sales of articles with respect to which Federal excise tax was imposed.*—The amount of net income taxable under section 501 (a) (1) is limited to the taxpayer's net income for the entire taxable year from the sale of all articles of a class (i. e., in the case of the processing tax on wheat, wheat articles) with respect to which each Federal excise tax was imposed. This is computed by deducting from the "gross income" from such sales the deductions allowable under the applicable Revenue Act, which are properly allocable to such sales, and which were not deducted in computing such "gross income." "Gross income" means "total sales" less "cost of goods sold." (See article 10.) The net income is thus computed for the entire taxable year from the sales of articles with respect to which each Federal excise tax was imposed, without the application of the exclusions provided for in section 501 (b). (See article 12.) It includes the net income from sales of all articles with respect to which the Federal excise tax was paid and sales of all articles with respect to which the Federal excise tax was not paid, whether the transaction with respect to which the Federal excise tax was imposed occurred before or after the date of any decision that the tax was invalid.

Example: A is a processor having a fiscal year ending June 30. During the taxable year beginning July 1, 1935, and ending June 30, 1936, he paid the processing tax on processing of wheat during the months July to November 1935, inclusive, but paid no tax with respect to any processing thereafter on account of the decision of the United States Supreme Court on January 6, 1936, that the Agricultural Adjustment Act was unconstitutional. He realized a net income of $1,000 from the sale prior to January 6, 1936, of wheat articles with respect to which the tax was imposed but not paid; i. e., articles processed after November 30, 1935. This entire amount was attributable to passing on the unpaid processing tax. On his other sales prior to January 6, 1936 (involving tax-paid articles), he realized a net income of $500. On articles sold after January 6, 1936, some of which were processed before such date and some processed after such date, he sustained a net loss of $700. His net income for the entire taxable year from the sale of all wheat articles (i. e., articles with respect to which the Federal excise tax was imposed), regardless of the date of processing, is thus $800, or $1,000 plus $500 minus $700. The amount on which he is taxable under section 501 (a) (1) is thus limited to $800, although his net income attributable to passing on the unpaid processing tax was $1,000.

Section 501 (b) of the Act

(b) The net income (specified in subsection (a) (1)) from the sale of articles with respect to which the Federal excise tax was not paid, and the net income specified in subsection (a) (2) or (3), shall not include the net income from the sale of any article, from reimbursement with respect to any article, or from refund or credit of Federal excise tax with respect to any article (1) if such article (or the articles processed therefrom) were not sold by the taxpayer on or before the date of the termination of the Federal excise tax; (2) if the taxpayer made a tax adjustment with respect to such article (or the articles processed therefrom) with his vendee; or (3) if under the terms of any statute the taxpayer would have been entitled to a refund from the United States of the Federal excise tax with respect to the article otherwise than as an erroneous or illegal collection (assuming, in case the tax was not paid, that it had been paid).

ART. 12. *Exclusions from net income.*—(a) In computing net income under sections 501 (a) (1), 501 (a) (2), and 501 (a) (3) there shall be excluded the net income with respect to any article (see, however, paragraph (b), below):

(1) If such article was not sold by the taxpayer on or before the date of the termination of the Federal excise tax (for example, January 6, 1936, in the case of a processing tax). (See section 501 (j) (2) and article 1 (1) for definition of "date of the termination of the Federal excise tax."); or

(2) If the taxpayer made a Federal excise tax adjustment with respect to such article with his vendee. Only articles with respect to which a tax adjustment was actually paid, credited, or accrued (i. e., the legal liability for payment or credit having been fixed), before the filing of the return of the tax, may be excluded under this paragraph. If and when other tax adjustments are actually paid or credited to purchasers after the return is filed,

the tax, if any, shall be redetermined accordingly. (See article 24 relating to redetermination of tax; also see section 501 (j) (4) and article 1 (k) for definition of "tax adjustment"); or

(3) If the taxpayer would have been entitled under any statute to a refund from the United States of the Federal excise tax imposed with respect to the articles otherwise than as an erroneous or illegal collection. (For example, a refund with respect to an article exported or delivered to a charitable organization under section 17 or 15 (c), respectively, of the Agricultural Adjustment Act.) For the purpose of this paragraph if the Federal excise tax was not paid, it shall be assumed that it had been paid.

(b) The foregoing exclusions do not apply to the computation under sections 501 (a) (1) and 501 (c) (2) of the net income for the entire taxable year from the sale of articles with respect to which the Federal excise tax was imposed or to the computation under section 501 (e) (2) of aggregate selling price. (See articles 7, 11, and 13.)

Section 501 (e) of the Act

(e) For the purposes of subsection (a) (1), (2), and (3), the extent to which the taxpayer shifted to others the burden of a Federal excise tax shall be presumed to be an amount computed as follows:

(1) From the selling price of the articles there shall be deducted the sum of (A) the cost of such articles plus (B) the average margin with respect to the quantity involved; or

(2) If the taxpayer so elects by filing his return on such basis, from the aggregate selling price of all articles with respect to which such Federal excise tax was imposed and which were sold by him during the taxable year (computed without deduction of reimbursement to purchasers with respect to such Federal excise tax) there shall be deducted the aggregate cost of such articles, and the difference shall be reduced to a margin per unit in terms of the basis on which the Federal excise tax was imposed. The excess of such margin per unit over the average margin (computed for the same unit) shall be multiplied by the number of such units represented by the articles with respect to which the computation is being made; * * *.

ART. 13. *Computation of extent to which burden of a Federal excise tax was shifted to others.*—The extent to which a Federal excise tax burden was shifted to others and, therefore, the extent to which net income computed pursuant to articles 7, 8, or 9, may subject to tax is presumed to be an amount computed in accordance with one of two alternative methods. The first method is provided in section 501 (e) (1) and the second in section 501 (e) (2). If the taxpayer elects under section 501 (c) to compute net income under paragraph (2) of that section, then in computing the extent to which Federal excise tax burdens were shifted, the method provided for in section 501 (e) (2) should be followed. Similarly, if the method of computing net income provided for in section 501 (c) (1) was adopted, then in computing the extent to which Federal excise tax burdens were shifted, section 501 (e) (1) should be followed.

Method I—Computation Under Section 501 (e) (1)

(1) There shall first be computed under each subparagraph below, the aggregate selling price of the articles specified therein (excluding those articles specified in section 501 (b), see article 12):

(A) In the case of net income under section 501 (a) (1), the articles with respect to which each Federal excise tax was imposed on the taxpayer but not paid, which were sold during the taxable year.

(B) In the case of net income from reimbursements under section 501 (a) (2), articles with respect to which there was paid, or accrued to the taxpayer, during the taxable year, reimbursement from his vendors of amounts representing burdens of each Federal excise tax included in prices paid by the taxpayer to such vendors.

(C) In the case of net income from refunds or credits under section 501 (a) (3), articles with respect to which the taxpayer received, during the taxable year, refunds or credits from the United States of each kind of Federal excise tax erroneously or illegally collected.

For the meaning of the term "selling price" and the term "refund or credit" see article 1 (g) and 1 (n), respectively.

(2) From the aggregate selling price of the articles involved under each subparagraph of paragraph (1), above, there shall be deducted the sum of the following items only:

(A) The cost to the taxpayer of the materials entering into such articles, or, in the case of articles purchased by the taxpayer for resale, the purchase price of such articles, less, in both cases, amounts for which the taxpayer is reimbursed at any time, with respect to such articles, by his vendors for amounts representing Federal excise tax burdens included in prices paid for such articles by the taxpayer to such vendors (see section 501 (f) (2) and article 1 (h); also section 501 (h) and article 21). However, the amount of any such reimbursement included in the computation of net income under section 501 (d) (see article 8) need not be deducted from such cost or purchase price in the case of aggregate selling price of articles specified in paragraph (1) (A), above.

(B) The aggregate average margin with respect to the quantity of articles involved in the computation under paragraph (1), above. This is computed by first segregating the articles involved into various types, expressed in terms of the unit in which the taxpayer customarily sold such articles in the ordinary course of trade, for example, yards of cloth, pounds of ham. For each type of article so segregated the margin with respect to the similar type of article sold by the taxpayer during the six taxable years preceding the date of the initial imposition of the Federal excise tax in question is then determined. Such determination of margin is made by deducting from the aggregate selling price of such similar types of articles sold by the taxpayer during the six-year period, the aggregate cost of such articles. This margin is then divided by the total number of articles of each type, expressed in the terms of the same unit as above. The result is the average margin per unit of articles of each type. This average margin per unit of article is then multiplied by the number of units of articles of each type which were included in determining the aggregate selling price under paragraph (1). The total of these results is the aggregate average margin with respect to the quantity of articles involved in the computation under paragraph (1).

(3) No deduction from aggregate selling price of articles, computed under paragraph (1), above, is allowable for any Federal excise taxes which were imposed on the taxpayer, whether or not paid, for direct or indirect costs of manufacturing or producing the articles, or for overhead expenses. The deductions from "selling price" of articles are limited to those specified in section 501 (f) (3). Similarly, "cost" of articles is limited as specified in section 501 (f) (2). (See article 1 (g) and 1 (h) for definitions of "selling price" and "cost".

(4) The difference between the aggregate selling price of the articles involved, computed under paragraph (1), and the sum of the cost of such articles and the aggregate average margin with respect to such articles, computed under paragraph (2), is presumed to be the extent to which the burden of the Federal excise tax in question was shifted to others. In no event may the amount so presumed exceed the amount computed under section 501 (e) (3). (See article 14.) The presumption thus established is not conclusive, however, but may be rebutted. (See article 16.)

Method II—Computation Under Section 501 (e) (2)

(1) There is first computed the aggregate selling price (without deduction of reimbursement to purchasers with respect to the Federal excise tax but with deduction for the allocable portion of professional fees and expenses as specified in section 501 (f) (3)) of all articles with respect to which each Federal excise tax was imposed, whether or not such tax was paid, which were sold by the taxpayer during the taxable year. In making such computation there shall not be excluded from sales any article specified in section 501 (b). Thus, in the case of wheat which was subject to a processing tax under the Agricultural Adjustment Act, there shall be included all sales during the taxable year of articles processed from wheat, without regard to the date of processing or the fact that the sales were made after

January 6, 1936, the date of the termination of the processing tax. (See section 501 (f) (3) and article 1 (g) for the meaning of the term "selling price.")

(2) From the aggregate selling price of all articles, with respect to which each Federal excise tax was imposed, computed under paragraph (1), above, there shall be deducted the following items only:

The aggregate cost of the materials entering into the articles, or in the case of articles purchased by the taxpayer for resale, the purchase price of such articles, less in both cases, amounts for which the taxpayer is reimbursed at any time, with respect to such articles, by his vendors for amounts representing Federal excise tax burdens included in prices paid by the taxpayer to such vendors. (See section 501 (f) (2) and article 1 (h). Also see section 501 (h) and article 21.) However, the amount of any such reimbursement included in the computation of net income under section 501 (d) (see article 8) need not be deducted from such cost or purchase price in determining the amount of net income under section 501 (a) (1) which is attributable to shifting the burden of a Federal excise tax.

(3) No deduction from aggregate selling price of articles, computed under paragraph (1) is allowable for any Federal excise taxes which were imposed on the taxpayer, whether or not paid, for direct or indirect costs of manufacturing or producing the articles, or for overhead expenses. The deductions from "selling price" of articles are limited to those specified in section 501 (f) (3). Similarly, "cost" of articles is limited as specified in section 501 (f) (2). (See article 1 (g) and 1 (h), respectively, for definitions of "selling price" and "cost.")

(4) The total quantity of the articles included in determining each aggregate selling price under paragraph (1) shall then be expressed in terms of the units on the basis of which the Federal excise tax was imposed. (See article 17 relating to expressing articles in terms of the unit on basis of which Federal excise tax was imposed.)

(5) There shall then be determined the quantities of the following articles which were included in determining each aggregate selling price under paragraph (1), above:

(A) In the case of net income under section 501 (a) (1), the quantity of articles with respect to which each Federal excise tax was imposed on the taxpayer but not paid, which were sold during the taxable year, excluding, however, articles specified under section 501 (b).

(B) In the case of net income from reimbursements under section 501 (a) (2), the quantity of articles with respect to which there was paid, or accrued to the taxpayer, during the taxable year, reimbursement from his vendors of amounts representing burdens of each Federal excise tax included in prices paid by the taxpayer to such vendors, excluding, however, articles specified under section 501 (b).

(C) In the case of net income from refunds or credits under section 501 (a) (3), the quantity of articles with respect to which the taxpayer received, during the taxable year, refunds or credits from the United States of each kind of Federal excise tax erroneously or illegally collected, excluding, however, articles specified under section 501 (b).

This quantity of articles in each case shall be expressed in terms of the unit on the basis of which each Federal excise tax was imposed. (See article 17.)

(6) The difference between each aggregate selling price computed as provided in paragraph (1), above, and the deductions specified in paragraph (2), above, shall be divided by the total number of units determined as provided in paragraph (4). This amount per unit shall be reduced to the margin per unit (in accordance with the definition in section 501 (f) (1)), as follows: The reimbursement to purchasers made as specified in section 501 (f) (3) with respect to the articles expressed in terms of units determined in each case under (A), (B), or (C), respectively, of paragraph (5), shall be divided by the number of units determined as provided in paragraph (4). The result of this computation shall be deducted from the amount per unit obtained as provided in the first sentence of this paragraph. The remainder if any is the margin per unit.

(7) The average margin is then computed by determining the aggregate selling price of all articles processed from any article or commodity of the same kind as a commodity or article with respect to which the Federal excise tax in question was imposed, which were sold by the taxpayer during the six taxable years preceding the date of the initial imposition of the Federal excise tax in question. From such aggregate selling price there is deducted the aggregate cost of such articles. The articles included in such computation shall be expressed in terms of the unit on the basis of which the Federal excise tax was imposed. The difference between such aggregate selling price and aggregate cost shall then be divided by the total quantity of such units. The result or quotient is the average margin per unit.

(8) The average margin per unit computed under paragraph (7) shall then be deducted from the margin per unit computed under paragraph (6), and the difference shall then be multiplied by the number of units represented by the articles involved, as computed under (A), (B), or (C) of paragraph (5). This result is presumed to be the extent to which the burden of the Federal excise tax in question was shifted to others. This amount so presumed cannot be in excess of the limitation imposed under section 501 (c) (3). The presumption is not conclusive, moreover, and may be rebutted. (See article 16 relating to rebuttal.)

(9) If, in the case of net income from reimbursement, or refunds or credits, specified in section 501 (a) (2) and 501 (a) (3), respectively, such reimbursement or refunds or credits were received in one taxable year, and some or all articles with respect to which such reimbursement or refunds or credits were received were sold during another taxable year, the margin per unit computed under paragraph (6) shall be computed with respect to each Federal excise tax, and with respect to each taxable year during which the taxpayer sold such articles. The excess of the margin per unit computed for each such taxable year and each Federal excise tax over the average margin per unit shall be multiplied by the number of units represented by such articles (excluding those specified in section 501 (b)) sold during such year. The result shall be presumed to be the extent to which the burden of such Federal excise tax was shifted during each year with respect to the articles sold in such year.

For example, A is a dealer who received reimbursements totaling $1,000 for the taxable year 1936, in an amount of $300 with respect to articles processed from corn, and in an amount of $700 with respect to articles processed from hogs. Some of the corn articles and some of the hog articles were sold in the taxable year 1935, and the remainder of the corn articles and the hog articles were sold in the taxable year 1936. The margin per unit for the corn articles and for the hog articles sold in 1935 shall be computed for that year, and the margin per unit for the corn articles and for the hog articles sold in 1936 shall be computed for that year, in order to determine the extent to which each processing tax was shifted with respect to the articles sold in the respective taxable years. A shifted the corn processing tax to the extent of $75 on the corn articles sold in 1935 and $25 on the corn articles sold in 1936 (a total of $100 on all the corn articles), and shifted the hog processing tax to the extent of $500 on hog articles sold in 1935, and $300 on the hog articles sold in 1936 (a total of $800 on all hog articles). The extent to which the burden of the Federal excise taxes was shifted is $900. The extent to which reimbursements totaling $1,000 are subject to the tax imposed by Title III (i. e., the extent to which the burden of Federal excise taxes was shifted to others) is the sum of the amounts computed with respect to each processing tax for each taxable year, or $900.

Section 501 (c) (3) of the Act

(3) In no case shall the extent to which the taxpayer shifted to others the burden of the Federal excise tax with respect to the articles be deemed to exceed the amount of such tax with respect to such articles minus (A) the portion of the amount of the Federal excise tax (or of the reimbursement specified in subsection (a) (2)) with respect to the articles which is paid or credited by the taxpayer to any purchasers as specified in subsection (f) (3) and minus (B) the amount of any increase in

the tax under section 602 of the Revenue Act of 1932 for which the taxpayer under this section became liable as the result of the nonpayment or refund of the Federal excise tax with respect to the articles.

ART. 14. *Limitation on extent to which Federal excise tax burden was shifted.*—The extent to which the Federal excise tax burden was shifted with respect to articles shall in no case be deemed to exceed the amount of such excise tax imposed with respect to such articles minus:

(1) The portion of the amount of the Federal excise tax, or of reimbursement with respect to such articles, specified under section 501 (a) (2), which was paid or credited by the taxpayer to any purchasers, as reimbursement for the amount included in the purchase price of such articles on account of a Federal excise tax, if such payments or credits were made (a) on or before June 1, 1936, or (b) at any time after June 1, 1936, pursuant to a bona fide settlement of a written agreement entered into on or before March 3, 1936; and

(2) The amount of any increase in the tax under section 602 of the Revenue Act of 1932 for which the taxpayer under this section became liable as the result of nonpayment or refund of the Federal excise tax with respect to such articles.

(See article 11 relating to income for entire taxable year.)

Section 501 (k) of the Act

(k) All references in this section to the purchase or sale (or to parties to the sale) of articles with respect to which a Federal excise tax was imposed shall be deemed to include the purchase or sale (or parties to the sale) of services with respect to which a Federal excise tax was imposed, and for the purposes of subsection (a) the extent to which the taxpayer shifted to others the burden of such Federal excise tax with respect to such services shall be presumed to be an amount computed as follows: From the selling price of the services there shall be deducted the average price received by the taxpayer for performing similar services during the six taxable years preceding the initial imposition of the Federal excise tax in question. The balance (to the extent that it does not exceed the amount of such Federal excise tax with respect to such services minus any payments or credits with respect to the services made to purchasers as specified in subsection (f) (3)) shall be the extent to which the taxpayer shifted the burden of such Federal excise tax to others. If during any part of such six-year period the taxpayer was not in business, or if his records for any part of such period are so inadequate as not to furnish satisfactory data, the average price of the taxpayer for such part of such period shall, when necessary for a fair comparison, be deemed to be the average price, as determined by the Commissioner, of representative concerns engaged in a similar business and similarly circumstanced. The presumption established by this subsection may be rebutted by proof of the character described in subsection (i).

ART. 15. *Computation of extent to which Federal excise tax burden was shifted on sales of services with respect to which a Federal excise tax was imposed.*—The tax imposed by section 501 (a) (1) on that portion of the net income from the sales of articles with respect to which a Federal excise tax was imposed on the taxpayer *but not paid*, which is attributable to shifting to others to any extent the burden of such Federal excise tax, is also applicable to the purchase and sale of services with respect to which a Federal excise tax was imposed *but not paid*. The net income from such services shall be computed as provided in section 501 (c) (1) or 501 (c) (2). (See article 7.) The tax imposed by section 501 (a) (2) and section 501 (a) (3) on net income from reimbursement and from refunds or credits, respectively, is likewise applicable to reimbursement and refunds and credits with respect to services. For example, custom slaughtering, custom milling for toll as well as commercial milling or processing of wheat, rice, corn, or rye, may give rise to taxable income under Title III, if a Federal excise tax was imposed on the taxpayer with respect to such processing.

The extent to which the Federal excise tax burden was shifted on sales of services shall be computed as follows:

(a) The aggregate selling price of the services with respect to which each Federal excise tax was imposed *but not paid* is first computed. In making such computation, however, there is excluded all income from the sale of services as specified in section 501 (b). (See article 12 for exclusions from net income.)

(b) There is then computed the aggregate selling price of similar services performed by the taxpayer during the six taxable years preceding the initial imposition of the Federal excise tax in question. The aggregate selling price of such services shall then be divided by the total number of units of services involved in such computation, and the result or average margin per unit shall be multiplied by the number of units of services included in computing aggregate selling price under paragraph (a), above. The result thus obtained is deducted from the aggregate selling price computed under paragraph (a), giving the extent to which the burden of the Federal excise tax is presumed to have been shifted with respect to the services involved. This presumption, however, is not conclusive, but may be rebutted. (See article 16.) In no event may the amount presumed to have been shifted be deemed to exceed the amount of the Federal excise tax imposed with respect to the services involved, minus any payments or credits specified in section 501 (f) (3) made to purchasers with respect to such services. (See article 14, also article 11.)

Section 501 (i) of the Act

(i) Either the taxpayer or the Commissioner may rebut the presumption established by subsection (e) by proof of the actual extent to which the taxpayer shifted to others the burden of the Federal excise tax. Such proof may include, but shall not be limited to:

(1) Proof that the change or lack of change in the margin was due to changes in factors other than the tax. Such factors shall include any clearly shown change (A) in the type or grade of article or materials, or (B) in costs of production. If the taxpayer asserts that the burden of the tax was borne by him while the burden of any other increased cost was shifted to others, the Commissioner shall determine, from the respective effective dates of the tax and of the other increase in cost as compared with the date of the change in margin, and from the general experience of the industry, whether the tax or the increase in other cost was shifted to others. If the Commissioner determines that the change in margin was due in part to the tax and in part to the increase in other cost, he shall apportion the change in margin between them.

(2) Proof that the taxpayer modified contracts of sale, or adopted a new contract of sale, to reflect the initiation, termination, or change in amount of the Federal excise tax, or at any such time changed the sale price of the article (including the effect of a change in size, package, discount terms, or any other merchandising practice) by substantially the amount of the tax or change therein, or at any time billed the tax as a separate item to any vendee or indicated by any writing that the sale price included the amount of the tax, or contracted to refund any part of the sale price in the event of recovery of the tax or decision of its invalidity; but the taxpayer may establish that such acts were caused by factors other than the tax, or that they do not represent his practice during the period in which the articles in question were sold.

ART. 16. *Rebuttal of presumption as to amount of excise tax burden shifted.*—The extent to which a Federal excise tax burden was shifted to others is only presumptively established by the procedure and computations provided for under section 501 (e). The presumption so established is not conclusive and may be rebutted. The taxpayer may always establish the actual amount of Federal excise taxes which was shifted to others, or, that he did not shift any part of the amount of such taxes but bore the full burden thereof.

The presumption as to the amount of excise tax burden shifted established by the computation under section 501 (e), in which the "margin" and "average margin" is taken into account, may be rebutted either by the taxpayer or by the Commissioner by proof that the change or lack of change in the margin with respect to the article or articles involved in the computation of net income under section 501 (e), as compared with the margin with respect to a similar article or articles during the six taxable years preceding the date of the original imposition of the Federal excise tax, was due to factors other than the tax. For example, proof that the margin for the taxable year for which taxable income is required to be determined, was greater or less than the margin for the six-year period, because the article for which the margin was computed, though similar, was different as to type or grade, either as to the article itself, or as to the materials from which the article was manufactured, or, that the change or lack of change in such margin was due to changes in costs whether or not included in computing the margin for the six-year period.

If the taxpayer asserts that the burden of the Federal excise tax was borne by him while the burden of any other increased

cost was shifted to others, the Commissioner shall determine, from the respective effective dates of such tax and of the other increase in cost as compared with the date of the change in margin, and from the general experience of the industry, whether the tax or the increase in other cost was shifted to others. If the Commissioner determines that the change in margin was due in part to the tax and in part to the increase in other cost, he shall apportion the change in margin between them.

The presumption under section 501 (e) may also be rebutted by proof that the taxpayer modified contracts of sale, or adopted a new contract of sale, to reflect the initiation, termination, or change in amount of the Federal excise tax, or at any such time changed the sale price of the article (including the effect of a change in size, package, discount terms, or any other merchandising practice) by substantially the amount of the tax or change therein, or at any time billed the tax as a separate item to any vendee or indicated by any writing that the sale price included the amount of the tax, or contracted to refund any part of the sale price in the event of recovery of the tax or decision of its invalidity; but the taxpayer may establish that such acts were caused by factors other than the tax, or that they do not represent his practice during the period in which the articles in question were sold.

Section 501 (c) (2) of the Act

(2) If the taxpayer so elects by filing his return on such basis, the total net income for the taxable year from the sale of all articles * * * shall be divided by the total quantity of such articles sold during the taxable year and the quotient shall be multiplied by the quantity of such articles involved in the sales specified in subsection (a) (1). Such quantities shall be expressed in terms of the unit on the basis of which the Federal excise tax was imposed.

Section 501 (e) (2) of the act

(2) If the taxpayer so elects by filing his return on such basis, from the aggregate selling price of all articles * * * there shall be deducted the aggregate cost of such articles, and the difference shall be reduced to a margin per unit in terms of the basis on which the Federal excise tax was imposed. * * *

ART. 17. *Articles expressed in terms of units on the basis of which the Federal excise tax was imposed.*—Articles, for example, handkerchiefs, cigars, hams, flour, cornstarch, may be expressed in terms of the commodity or material from which they were manufactured or produced. Thus, handkerchiefs, cigars or hams may be expressed in pounds (or fraction of a pound) of cotton, tobacco, or hog, respectively; and flour and cornstarch may be expressed in bushels or pounds (or fraction of a bushel or pound) of wheat or corn, respectively.

If, under the Act, or these regulations, articles are required to be expressed in terms of the unit on the basis of which the Federal excise tax was imposed, the articles in question shall be reduced to the number of units on the basis of which such tax was imposed which were used in the manufacture or production of such articles. For example, the tax on the processing of cotton imposed by the Agricultural Adjustment Act was imposed at the rate of 4.2 cents per pound of lint cotton, net weight; that is, the unit on the basis of which the processing tax was imposed was one pound of lint cotton, net weight. Consequently, to express 1,000 cotton bed sheets in units on the basis of which the processing tax was imposed (i. e., pounds of lint cotton) a determination must be made of the number of pounds of lint cotton which were used in the manufacture of the 1,000 bed sheets. Such determination shall be made from the records of the taxpayer. If the records of the taxpayer are inadequate to establish the quantity of lint cotton used in the manufacture of the bed sheets, such amount shall be computed by the application of the conversion factors prescribed in regulations issued under the Agricultural Adjustment Act (see article 18).

Section 501 (g) of the Act

(g) In determining costs, selling prices, and net income, the taxpayer shall, unless otherwise shown, be deemed to have sold articles in the order in which they were manufactured, produced, or acquired. Where the taxpayer's records do not adequately establish the quantity of a commodity taxable under the Agricultural Adjustment Act, as amended, entering into articles sold by him, such quantities shall be computed by the use of the conversion factors prescribed in regulations under such Act, as amended.

ART. 18. *Use of conversion factors in determining quantity of commodity entering into an article.*—If, under Title III, the determination of the quantity of material entering into an article is required, such quantity shall be established from the records of the taxpayer. If, however, such records are inadequate to establish such quantity, if processed from a commodity the processing of which was subject to tax under the Agricultural Adjustment Act, such quantity shall be determined in accordance with conversion factors prescribed for such articles in regulations issued under said Act.

ART. 19. *Regulations containing conversion factors—date of initial imposition of processing tax.*—The conversion factors for articles processed from commodities with respect to which a processing tax was imposed under the Agricultural Adjustment Act, and the date of the initial imposition of the processing tax with respect to each such commodity, are set forth, respectively, in the following Treasury Decisions:

Commodity	Treasury Decision	Date of Initial Imposition of Tax
Wheat	4570	July 9, 1933.
Cotton	4433	August 1, 1933.
Tobacco	4510	October 1, 1933.
Field Corn	4497	November 6, 1933.
Hogs	4518	November 6, 1933.
Paper and Jute	4435, 4415	December 1, 1933.
Sugar	4549	June 8, 1934, except that in the Philippine Islands the effective date was September 12, 1934.
Peanuts	4489	October 1, 1934.
Rice	4589	April 1, 1935.
Rye	4691	September 1, 1935.
Reinforced paper fabric	4911	November 1, 1935.

ART. 20. *First in-first out rule.*—In determining the cost or the selling price of articles, or the net income with respect to articles which were manufactured, produced, or acquired by the taxpayer on different dates, the taxpayer, unless he can identify the particular articles with respect to which the cost, selling price, or net income, is to be determined, shall be deemed to have sold the articles in the order in which they were manufactured, produced, or acquired, by the taxpayer.

Section 501 (h) of the Act

(h) If the taxpayer made any purchase or sale otherwise than through an arm's-length transaction, and at a price other than the fair market price, the Commissioner may determine the purchase or sale price to be that for which such purchases or sales were at that time made in the ordinary course of trade.

ART. 21. *Fair market price and transactions not at arm's length.*—If any purchase or sale price required to be determined under the provisions of Title III was paid or received otherwise than through an arm's-length transaction and otherwise than at the fair market price of the article or commodity or service in question, the Commissioner may determine such purchase or sales price to be that for which such purchases or sales were at that time made in the ordinary course of trade. Generally, "fair market price" means the price which a purchaser, not under compulsion and willing to buy, would pay to a seller not under compulsion and willing to sell, in good faith. Sales to or purchases from a corporation owned or controlled by the taxpayer or subject to the same common ownership or control as the taxpayer, will be subject to special scrutiny to determine whether they are arm's-length transactions and were made at the fair market price at which purchases and sales were made at that time in the ordinary course of trade.

Section 501 (i) of the Act

(i) The taxes imposed by subsection (a) shall be imposed on the net income from the sources specified therein, regardless of any loss arising from the other transactions of the taxpayer, and regardless of whether the taxpayer had a taxable net income (under the income-tax provisions of the applicable Revenue Act) for the taxable year as a whole; except that if such application of the tax imposed by subsection (a) is held invalid, the tax

under subsection (a) shall apply to that portion of the taxpayer's entire net income for the taxable year which is attributable to the net income from the sources specified in such subsection.

ART. 22. *Losses on transactions not involving net income from sources specified in section 501 (a).*—The taxes imposed by Title III are imposed on net income for the taxable year in question (see section 504, article 5) arising from each of the sources specified in section 501 (a) (see article 3) even though the taxpayer sustained a loss from his entire business for that year under Title I of the Revenue Act applicable for such year. (See article 11.)

Example: Under the provisions of Title I of the Revenue Act of 1934, as amended, the net income of taxpayer A for the calendar year 1935 was $500.00, while taxpayer B for the same year sustained a net loss of $500.00. Both taxpayer A and taxpayer B during 1935 realized a net income of $1,000.00 from the sale of articles with respect to which a Federal excise tax was imposed but not paid. The amount of such Federal excise tax in each case was $1,000.00 and the full amount thereof was shifted to purchasers of the articles.

Both A and B are liable under the provisions of Title III to a tax on net income of $1,000.00, i. e., a tax of $800.00.

Section 502 of the Act

There shall be credited against the total amount of the taxes imposed by this title an amount equivalent to the excess of—

(a) The amount of the other Federal income and excess-profits taxes payable by the taxpayer for the taxable year, over

(b) The amount of the other Federal income and excess-profits taxes which would have been payable by the taxpayer for the taxable year if his net income were decreased by the amount of net income taxable under this title.

ART. 23. *Credit for other taxes on income.*—The taxes imposed by Title III are in addition to all other taxes imposed on income (see section 501 (a) and article 2). Section 502, however, provides for a credit against the total amount of taxes imposed by Title III with respect to a taxable year equal to the amount by which other Federal income and excess-profits taxes, payable by the taxpayer with respect to such year, would have been diminished by excluding from the computation of those taxes the net income taxable under Title III. No credit may be obtained with respect to any Federal income or excess-profits taxes for any taxable year unless the taxpayer was liable to pay an amount of such income or excess-profits taxes for such year, and no credit may exceed the amount such taxpayer was liable to pay. The net income taxable under Title III which is excluded in computing the credit under section 502 is that portion of net income under section 501 (a) (1), 501 (a) (2), or 501 (a) (3) to which the 80 percent rate is applicable in computing the amount of tax under such sections.

ART. 24. *Redetermination of tax.*—If subsequent to the filing of the return "selling price" is reduced by amounts paid by the taxpayer to vendors (see article 1 (g)), or net income from the sale of articles with respect to which the tax is imposed but not paid is reduced by any "tax adjustment" (see articles 1 (k) and 12), and as a result thereof, the amount of tax paid pursuant to the return as filed is in excess of the amount of tax due after allowance of the reductions above mentioned, the taxpayer, upon filing a proper claim for refund, may obtain a refund or credit for such excess. (See sections 321 and 322 of Title I of the Act and regulations issued thereunder.)

Section 505 of the Act

With respect to the following income, the tax under this title shall be in force in any possession of the United States (including the Philippine Islands); such tax shall (without regard to the residence or citizenship or place of organization of the taxpayer) be collected by the appropriate internal-revenue officers of such possession; and the proceeds thereof shall accrue to the general government of such possession; (a) Any income specified in subsection (a) (1) or (3) of section 501 if the Federal excise tax with respect to the articles in question accrued in such possession; and (b) any income specified in subsection (a) (2) of section 501 if the reimbursement specified therein relates to articles sold in such possession by the taxpayer under this title and if the geographical scope of the Federal excise tax in question extended to such possession. Income taxable as provided in this section shall not be otherwise taxable under this title. In applying section 501 to such income, the gross income and deductions shall be determined in accordance with the Federal Revenue Act applicable to the taxable year. In applying section 502 to such income, income taxes paid to such possession shall be deemed to be Federal income taxes.

ART. 25. *Application of the tax to possessions of the United States.*—(a) Under section 505 the tax under Title III is in force in possessions of the United States (including the Philippine Islands) under the following circumstances:

(1) If the Federal excise tax with respect to articles accrued in a possession of the United States (including the Philippine Islands) (for example, articles processed from a commodity, the processing of which in the possession was subject to a tax under the Agricultural Adjustment Act) the net income specified in subsection (a) (1) or (a) (3) of section 501 is subject to tax (that is, net income from the sale of the articles with respect to which the Federal excise tax was imposed but not paid, or net income from refunds or credits from the United States of the Federal excise tax erroneously or illegally collected with respect to the articles), to the extent that the burden of such taxes was shifted to others.

(2) If an article with respect to which a Federal excise tax was imposed was sold in a possession of the United States to which such tax extended (even though such tax did not accrue with respect to the specific article sold in the possession, as in paragraph (a), above), any net income specified in subsection (a) (2) of section 501 is subject to the tax under Title III (that is, the net income from reimbursement received from vendors of amounts representing Federal excise tax burdens included in prices paid to such vendors), to the extent that the amount of the burden of such tax was shifted to others.

(b) Income taxable as provided in section 505 in a possession of the United States is not otherwise taxable under Title III. Thus, any net income subject to the tax in a possession would not also be subject to the tax in the United States.

(c) In determining net income and the portion thereof which is subject to tax in a possession of the United States the provisions of section 501 are applicable. Gross income and deductions for the purpose of computing the amount of net income subject to tax shall be determined in accordance with the Federal Revenue Act applicable to the taxable year in question (see article 10), and for the purposes of the credits provided for in section 502 (see article 23), any income taxes paid by the taxpayer to a possession of the United States shall be deemed to be Federal income taxes.

Section 606 (a) and (b) of the Revenue Act of 1928

(a) *Authorization.*—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal-revenue tax for any taxable period ending prior to the date of the agreement.

(b) *Finality of agreements.*—If such agreement is approved by the Secretary, or the Undersecretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

Section 506 of the Act

Any person who is liable for the tax imposed by this title and who has filed any claim or claims for refund of any amount paid or collected as tax under the Agricultural Adjustment Act, as amended, may apply to the Commissioner of Internal Revenue for an adjustment of such liability for tax in conjunction with such claim or claims for refund, and thereafter, the Commissioner, for such purposes, may, in his discretion, consider such liability and such claim or claims as one case and, in his discretion, may enter into a written agreement with such person for the settlement of such case by such payment, by or refund to, such person as may be specified in such agreement. Such agreement shall be a final settlement of the liability for tax and the claim or claims for refund covered by such agreement, except in case of fraud, malfeasance, or misrepresentation of a material fact. In the absence of fraud or mistake in mathematical calculation, any action taken or any consideration given by the Commissioner pursuant to this section shall not be subject to review by any court, or any administrative or accounting officer, employee, or agent of the United States.

ART. 26. *Closing agreements.*—(a) Agreements for the final determination of the tax imposed by Title III may be entered into between the taxpayer and the Commissioner as follows:

(1) An agreement under section 606 (a) and (b) of the Revenue Act of 1928 for the final determination of the tax imposed by Title III.

(2) An agreement under section 506 of the Act for the final determination of the tax imposed by Title III *and* of the amount of any refund to the taxpayer pursuant to a claim filed under Title VII of the Act for refund of any amount paid or collected as tax under the Agricultural Adjustment Act.

(b) A closing or final agreement under section 606 (a) and (b) of the Revenue Act of 1928 may relate to any taxable period ending prior to the date of the agreement. Such an agreement may be executed even though under such agreement the taxpayer is not liable for any tax for the period covered by the agreement. The matter agreed upon may relate to the total tax liability of the taxpayer or it may relate to one or more separate items affecting the tax liability of the taxpayer. Accordingly, there may be a series of agreements relating to the tax liability for a single taxable period.

(c) An agreement under section 506 of the Act may relate to any taxable period ending prior to the date of the agreement. Such an agreement may be executed only if the taxpayer for the tax period or periods (1) is liable for the tax imposed by Title III, (2) has filed the required return of tax (see article 27), (3) has paid any tax shown to be due by any such return and (4) has filed a claim or claims for refund until Title VII of the Act.

If the taxpayer has fulfilled the foregoing requirements, he may file an application with the Commissioner on the prescribed form, requesting that the Commissioner consider his liability for the tax under Title III in conjunction with his claim or claims for refund under Title VII. Such form shall be filled out in accordance with the instructions printed thereon and in accordance with these regulations. The Commissioner may grant such application and may consider the taxpayer's liability for tax under Title III and the taxpayer's claim or claims for refund under Title VII as one case.

(d) In his discretion, the Commissioner may enter into a written agreement with the taxpayer under section 506 of the Act, or section 606 (a) and (b) of the Revenue Act of 1928. Any such agreement shall be a final settlement of the matters covered by such agreement.

(e) A claim for refund under Title IV of the Revenue Act of 1936 will not be considered in connection with any agreement under section 506.

CHAPTER III

RETURNS, RECORDS, AND PAYMENT OF TAX

Section 503 (a) and (b) of the Act

(a) All provisions of law (including penalties) applicable with respect to taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this title, be applicable with respect to the taxes imposed by this title, except that the provisions of sections 101, 131, 251, and 252 shall not be applicable.

(b) Every person (1) upon whom a Federal excise tax was imposed but not paid, or (2) who received any reimbursement specified in subsection (a) (2), or (3) who received a refund or credit of Federal excise tax, shall make a return under this title, which return shall contain such information and be made in such manner as the Commissioner, with the approval of the Secretary, shall prescribe. For any taxable year ended prior to the date of the enactment of this Act the return shall be filed, and the total amount of the taxes shall be paid, not later than the fifteenth day of the third month after the date of the enactment of this Act, in lieu of the time otherwise prescribed by law.

Section 51 (c) of the Act

(c) *Persons Under Disability.*—If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

Section 3165 of the United States Revised Statutes, Reenacted by Section 1115 of the Revenue Act of 1926

Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

Section 1104 of the Revenue Act of 1926, as Amended by Section 618 of the Revenue Act of 1928

The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

Section 3176 of the United States Revised Statutes, as amended by section 1103 of the Revenue Act of 1926

If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes. * * *

ART. 27. *Returns.*—(a) The following persons are required to file a return of tax under Title III for each taxable year with respect to which such tax is imposed (see article 5) even though the return discloses no net income subject to tax:

(1) Every person upon whom a Federal excise tax was imposed but not paid during such taxable year, shall make return of tax under section 501 (a) (1).

(2) Every person who received any reimbursement specified in section 501 (a) (2) during such taxable year, shall make return of tax under section 501 (a) (2).

(3) Every person who received a refund or credit of Federal excise tax during such taxable year, shall make return of tax under section 501 (a) (3). (See article 1 (n) for definition of "refund or credit."

(b) The return shall be under oath and shall be made on the prescribed form in accordance with the instructions printed thereon and in accordance with the regulations. Copies of the prescribed return forms may be obtained by taxpayers from collectors. A taxpayer will not be excused from making a return because of the fact that no return form has been furnished to him. Taxpayers should make application therefor to the collector in ample time to have their returns prepared, verified, and filed with the collector on or before the due date. Each taxpayer shall carefully prepare his return so as fully and clearly to set forth the data therein called for. Returns which have not been so prepared will not be accepted as meeting the requirements of the Act.

(c) Each corporation shall render a separate return.

(d) The return may be made by an agent if, by reason of illness, the person liable for the making of the return is unable to make it. The return may also be made by an agent if the taxpayer is unable to make the return by reason of continuous absence from the United States for a period of at least sixty days prior to the date prescribed by law for making the return. Whenever a return is made by an agent it must be accompanied by the prescribed power of attorney, form 935. The taxpayer and his agent, if any, are responsible for the return as made and incur liability for the penalties provided for erroneous, false, or fraudulent returns.

ART. 28. *Verification of returns.*—All returns must be verified under oath or affirmation. The oath or affirmation may be administered by any officer duly authorized to administer oaths for general purposes by the law of the United States

or of any State, Territory, or possession of the United States, wherein such oath is administered, or by a consular officer of the United States. Returns executed abroad may be attested free of charge before United States consular officers. If a foreign notary or other official having no seal shall act as attesting officer, the authority of such attesting officer should be certified to by some judicial official or other proper officer having knowledge of the appointment and official character of the attesting officer.

In the case of a corporation the return shall be sworn to by the president, vice president, or other principal officer and by the treasurer, assistant treasurer, or chief accounting officer. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

The return of a partnership or other unincorporated organization shall be sworn to by a responsible and duly authorized member having knowledge of its affairs and, if the partnership or other unincorporated organization has a manager or chief executive officer, by such manager or chief executive officer.

ART. 29. *Returns by receivers.*—Receivers, trustees in dissolution, trustees in bankruptcy, and assignees, operating the property or business of corporations, must make returns for such corporations. If a receiver has full custody of and control over the business or property of a corporation, he shall be deemed to be operating such business or property within the meaning of section 52 of the Act, whether he is engaged in carrying on the business for which the corporation was organized or only in marshaling, selling, and disposing of its assets for purposes of liquidation. Notwithstanding that the powers and functions of a corporation are suspended and that the property and business are for the time being in the custody of the receiver, trustee, or assignee, subject to the order of the court, such receiver, trustee, or assignee stands in the place of the corporate officers and is required to perform all the duties and assume all the liabilities which would devolve upon the officers of the corporation were they in control. (See sections 274 and 298 of the Act.) A receiver in charge of only part of the property of a corporation, however, as, for example, a receiver in mortgage foreclosure proceedings involving merely a small portion of its property, need not make a return.

TIME AND PLACE FOR FILING RETURNS

Section 503 (b) of the Act

* * * For any taxable year ended prior to the date of the enactment of this Act the return shall be filed, and the total amount of the taxes shall be paid, not later than the fifteenth day of the third month after the date of the enactment of this Act, in lieu of the time otherwise prescribed by law.

Section 53 of the Act

(a) *Time for Filing.*—

(1) General Rule.—Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year.

(2) Extension of Time.—The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(b) *To Whom Return Made.*—

(1) Individuals.—Returns (other than corporation returns) shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

(2) *Corporations.*—Returns of corporations shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland.

ART. 30. *Time and place for filing returns.*—(a) A return is required to be filed for each taxable year for which the tax is imposed. (See article 5.) The return for the calendar year 1935, a fiscal year ending in 1935 and a fiscal year ending in 1936 but prior to June 22, 1936 (the date of enactment of the Act), shall be filed not later than the 15th day of September 1936. A return for the calendar year 1936 and each subsequent calendar year, or for a fiscal year ending after June 22, 1936 and each subsequent fiscal year, shall be filed on or before the 15th day of the third month following the close of such year. Thus the earliest taxable year for which a return is required to be filed is a fiscal year ending in January 1935. A corporation going into liquidation during any taxable year may, upon the completion of such liquidation, prepare a return and may immediately file such return with the collector.

(b) The return shall be filed with the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business, the return shall be filed with the collector of internal revenue at Baltimore, Maryland.

ART. 31. *Due date of return.*—The due date is the date on or before which a return is required to be filed in accordance with the provisions of the Act, or the last day of the period covered by an extension of time granted by the Commissioner or a collector. When the due date falls on Sunday or a legal holiday, the due date for filing returns will be the day following such Sunday or legal holiday. If placed in the mails, the returns should be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is required to be filed. If a return is made and placed in the mails in due course, properly addressed and postage paid, in ample time to reach the office of the collector on or before the due date, no penalty will attach should the return not actually be received by such officer until subsequent to that date. If a question may be raised as to whether the return was posted in ample time to reach the collector's office on or before the due date, the envelope in which the return was transmitted will be preserved by the collector and forwarded to the Commissioner with the return. As to additions to the tax in the case of failure to file return within the prescribed time, see section 291.

ART. 32. *Extensions of time for filing returns.*—It is important that the taxpayer render on or before the due date a return as nearly complete and final as it is possible for him to prepare. However, the Commissioner is authorized to grant a reasonable extension of time for filing returns under such rules and regulations as he shall prescribe with the approval of the Secretary. Accordingly, authority for granting extensions of time for filing returns is hereby delegated to the various collectors of internal revenue. Application for extensions of time for filing returns should be addressed to the collector of internal revenue for the district in which the taxpayer files his returns and must contain a full recital of the causes for the delay. Except in the case of taxpayers who are abroad, no extension for filing returns may be granted for more than six months. (See article 35 relating to extension of time for payment of tax.)

RECORDS AND SPECIAL RETURNS

Section 54 of the Act

(a) *By Taxpayer.*—Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) To Determine Liability To Tax.—Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show whether or not such person is liable to tax under this title.

Section 145 of the Act

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such

return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000.00, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000.00, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

ART. 33. *Aids to collection of tax.*—The Commissioner may require any person to keep specific records, render under oath such statements and returns, and comply with such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, in order that he may determine whether such person is liable for the tax. In accordance with this provision, every person required to file a return (see article 27) who carries on the business of producing, manufacturing, purchasing, or selling any commodities or merchandise, shall for the purpose of determining the amount of income which may be subject to the tax keep such permanent books of account or records, including inventories, as are necessary to establish the amount of his income and the deductions, credits, and other information required to be shown in the return. Forms relating to the tax shall be prescribed by the Commissioner and filled in according to the instructions contained thereon and the regulations applicable thereto.

PAYMENT OF THE TAX

Section 503 (b) of the Act

(b) * * * For any taxable year ended prior to the date of the enactment of this Act the return shall be filed, and the total amount of the taxes shall be paid, not later than the fifteenth day of the third month after the date of the enactment of this Act, in lieu of the time otherwise prescribed by law.

Section 56 of the Act

(a) *Time of Payment.*—The total amount of tax imposed by this title shall be paid on the fifteenth day of March following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the third month following the close of the fiscal year.

(b) *Installment Payments.*—The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(c) *Extension of Time for Payment.*—At the request of the taxpayer, the Commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, for a period not to exceed six months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(d) *Voluntary Advance Payment.*—A tax imposed by this title, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(e) *Advance Payment in Case of Jeopardy.*—For advance payment in case of jeopardy, see section 146.

* * * * *

(g) *Fractional Parts of Cent.*—In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(h) *Receipts.*—Every collector to whom any payment of any income tax is made shall upon request give to the person making such payment a full written or printed receipt therefor.

ART. 34. *Payment of the tax.*

(a) *Taxable years ended prior to June 22, 1936.*—The tax for any taxable year ended prior to June 22, 1936, shall be paid not later than September 15, 1936. Such tax shall be paid in full and may not be paid in installments.

(b) *Taxable years ending subsequent to June 22, 1936.*—The tax for any taxable year ending on and after June 22, 1936, shall be paid on or before the 15th day of March following the close of the calendar year, or, if the return is made on the basis of a fiscal year, the tax shall be paid on or before the 15th day of the third month following the close of the fiscal year. Such tax may, at the option of the taxpayer, be paid in four equal installments instead of in a single payment, in which case the first installment shall be paid on or before the date prescribed for the payment of the tax as a single payment, the second installment on or before the 15th day of the third month, the third installment on or before the 15th day of the sixth month, and the fourth installment on or before the 15th day of the ninth month, after such date. If the taxpayer elects to pay the tax in four installments, each of the four installments must be equal in amount, but any installment may be paid, at the election of the taxpayer, prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment either by the Act or by the Commissioner in accordance with the terms of an extension, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(c) *To whom payment of the tax is made.*—The tax is due and payable to the collector of internal revenue referred to in article 30 (b) without assessment by the Commissioner or notice or demand from the said collector.

Section 503 (c) of the Act

If the Commissioner finds that the payment, on the date prescribed for the payment thereof, of any part of the amount determined by the taxpayer as the tax under this title, or of any deficiency with respect thereto, would impose undue hardship upon the taxpayer, the Commissioner may grant an extension for the payment of any such part for a period not in excess of three years. In such case the amount with respect to which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount with respect to which the extension is granted, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the amount with respect to which the extension is granted in accordance with the terms of the extension. There shall be collected, as a part of any amount with respect to which an extension is granted, interest thereon at the rate of 6 per centum per annum from the expiration of six months after the due date thereof to the expiration of the period of the extension.

ART. 35. *Extension of time for payment of the tax or installment thereof.*—If it is shown to the satisfaction of the Commissioner that the payment of the amount determined as the tax by the taxpayer or any part or installment thereof (where payment of the tax in installments is permitted (see article 34 (b))), or of any deficiency with respect thereto, upon the date or dates prescribed for the payment thereof will result in undue hardship to the taxpayer, the Commissioner, at the request of the taxpayer, may grant an extension of time for the payment of any such part for a period not in excess of three years. In such case the amount with respect to which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection shall be suspended for the period of any such extension.

The extension will not be granted upon a general statement of hardship. The term "undue hardship" means more than an inconvenience to the taxpayer. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the taxpayer from making payment of the amount at the due date. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in an undue hardship.

An application for an extension of time for the payment of such tax should be made under oath on the prescribed form and must be accompanied or supported by evidence showing the undue hardship that would result to the taxpayer if the extension were refused. A sworn statement of assets and liabilities of the taxpayer is required and should accom-

pany the application. An itemized statement showing all receipts and disbursements for each of the three months preceding the due date of the tax shall also be submitted. The application with the evidence must be filed with the collector who will at once transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner it will be examined immediately and, if possible, within 30 days will be rejected, approved, or tentatively approved, subject to certain conditions of which the taxpayer will be immediately notified. The Commissioner will not consider an application for an extension of time for the payment of a tax unless such application is made in writing, and is made to the collector on or before the due date of the tax or installment thereof for which the extension is desired, or on or before the date or dates prescribed for payment in any prior extension granted.

As a condition to the granting of such an extension, the Commissioner will usually require the taxpayer to furnish a bond in an amount not exceeding double the amount of the tax or to furnish other security satisfactory to the Commissioner for the payment of the tax, deficiency, or installment thereof on the date prescribed for payment in the extension, so that the risk of loss to the Government will not be greater at the end of the extension period than it was at the beginning of the period. If a bond is required it must be filed with the collector within 10 days after notification by the Commissioner that such bond is required. It shall be conditioned upon the payment of the tax, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the taxpayer may file a bond secured by deposit of bonds or notes of the United States equal in their total par value to an amount not exceeding double the amount of the tax or deficiency. An extension of time for filing a return does not operate to extend the time for the payment of the tax or any part thereof, unless so specified in the extension. If an extension of time for payment of any part of the tax or any deficiency or installment is granted, the amount, time for payment of which is so extended, shall be paid on or before the expiration of the period of the extension, together with interest at the rate of 6 percent per annum on such amount from the expiration of six months after the due date thereof to the expiration of the period of the extension.

ART. 36. *When fractional part of cent may be disregarded.*—In the payment of taxes a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. Fractional parts of a cent should not be disregarded in the computation of taxes.

ART. 37. *Receipts for tax payments.*—Upon request a collector will give a receipt for each tax payment. In the case of payments made by check or money order the canceled check or the money order receipt is usually a sufficient receipt. In the case of payments in cash, however, the taxpayer should in every instance require and the collector should furnish a receipt.

CHAPTER IV

MISCELLANEOUS PROVISIONS

Section 503 (a) of the Act

(a) All provisions of law (including penalties) applicable with respect to taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this title, be applicable with respect to the taxes imposed by this title, except that the provisions of sections 101, 131, 251, and 252 shall not be applicable.

Section 61 of the Act

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this title.

ART. 38. *Laws made applicable.*—All provisions of law with respect to taxes imposed by Title I of the Act (except sections 101, 131, 251, and 252) and all administrative, special, or stamp provisions of law including the law relating to the assessment of taxes are, insofar as not inconsistent with the provisions of Title III, applicable with respect to the taxes imposed by Title III.

All regulations now or hereafter issued pursuant to the foregoing applicable provisions of law are hereby made applicable, insofar as not inconsistent with the provisions of Title III and these regulations, to the taxes imposed by Title III.

See also the following Supplements of the Revenue Act of 1936 and the applicable regulations issued or to be issued under Title I of that Act:

Supplement L relating to assessment and collection of deficiencies.

Supplement M relating to interest and additions to tax in case of negligence or fraud in the nonpayment of tax or failure to file a return therefor.

Supplement N relating to credits against transferees and fiduciaries.

Supplement O relating to overpayments, refunds, and credits.

RULES AND REGULATIONS

Section 62 of the Act

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

SEPARABILITY CLAUSE

Section 1002 of the Act

If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Section 1003 of the Act

Except as otherwise provided, this Act shall take effect upon its enactment.

ART. 39. *Effective date of Act.*—The Act was approved June 22, 1936, at 9 p. m., eastern standard time.

In pursuance of the Act the foregoing regulations are hereby prescribed.

[SEAL] CHAS. T. RUSSELL,
Acting Commissioner of Internal Revenue.

Approved, August 10, 1936.

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 1731—Filed, August 14, 1936; 10:45 a. m.]

DEPARTMENT OF AGRICULTURE.

Forest Service.

REGULATIONS OF THE SECRETARY OF AGRICULTURE RELATING TO THE PROTECTION, OCCUPANCY, USE, AND ADMINISTRATION OF THE NATIONAL FORESTS

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat. 628), amendatory of the act of Congress of June 4, 1897 (30 Stat. 11, 36), I, M. L. Wilson, Acting Secretary of Agriculture, do make and publish the following regulations relating to the occupancy, use, protection, and administration of the national forests, the same to supersede all previous regulations for like purposes and to be in force and effect from the first day of September 1936.

ADMINISTRATION AND PROTECTION

REG. A–1. Forest officers and employees assigned to field duty may be required, under such conditions as the Chief of the Forest Service may prescribe, to furnish at their own expense clothing of standard designs and materials for their personal use in the performance of official duty.

REG. A–2. The Chief of the Forest Service is authorized to sell at field stations of the Forest Service after public notice, by advertisement or otherwise, such articles of equipment as are worn out or damaged beyond repair, or which are of no

further use in the service but which have a sale value estimated at $1,000 or less. The Chief of the Forest Service may delegate the authority to regional foresters. When the estimated sale value is more than $1,000 special authority must be obtained from the Secretary of Agriculture.

Animals and animal products which cease to be needed in the work of the Forest Service and which have a sale value may, upon the approval of the Chief of the Forest Service or the regional foresters, be sold in the open market or exchanged for other livestock, and all moneys received from the sale of such animals or animal products, or as a bonus in the exchange of the same, shall be deposited in the Treasury as miscellaneous receipts.

REG. A–3. Property owned by employees of the Forest Service may be hired or rented for use by officers other than the employee-owner, when such hiring or rental is in the interest of the Government. The total paid to permanent employees under this regulation, exclusive of property hired or rented for fire emergencies, may not exceed $3,000 in any one fiscal year.

REG. A–4. Horse feed, equipment, food, articles of clothing, tobacco, and other personal supplies may be furnished officers and employees of the Forest Service, the costs of same to be deducted from their salaries or wages or amounts otherwise due such employees. Payment for the purchase or replacement of supplies and equipment so furnished will be made from the appropriation or appropriations applicable to the payment of salaries, wages, or other amounts due such officers or employees.

REG. A–5. Officers or employees of the Forest Service of any grade or salary may, in the discretion of such officers as the Chief of the Forest Service may designate, be required to furnish saddle and other animals, or motor vehicles and equipment, necessary for the performance of their official duties. All animals, vehicles, and equipment so furnished will be covered by a written contract of hire.

Animals, motor vehicles, or other equipment owned by forest officers or employees, but not required for the performance of their usual official duties under the preceding paragraph, may be furnished for emergency or special work. Whenever practicable a written contract will be executed.

Forage, care, and housing will be furnished for animals required to be furnished by an officer or employee for the performance of his official duties, and for other animals during the period of their official use. Mileage will be allowed for motor vehicles and housing may be allowed under the instructions of the Chief of the Forest Service.

Animals, vehicles, and other equipment obtained for official use from firms or persons other than Forest Service employees will, when practicable, be covered by a written contract or memorandum of agreement.

If privately owned property is lost, damaged, or destroyed while in the possession of the Forest Service for official use, reimbursement therefor may be made to the owner, except when due to ordinary wear and tear or to causes the risks of which are assumed by the owner under the terms of the agreement, whether written or verbal provided, that except for fire-fighting emergencies no reimbursement in excess of $50 can be made for loss, damage, or destruction of property obtained for official use unless the claim therefor is supported by a written contract of hire, executed prior to the loss, damage, or destruction, or by a certified copy of such written contract. (Act approved January 31, 1931.)

The Chief of the Forest Service is authorized to approve for payment claims for loss, damage, or destruction under this regulation when the amount of such claim is not in excess of $50, and to delegate this authority to the regional foresters.

REG. A–6. Only qualified citizens of the United States, who are between the ages of 21 and 35, are eligible for examination for the positions of junior forester, junior range examiner, and forest ranger. Selection for appointment as forest ranger will be made when practicable from qualified citizens of the State in which the national forests, respectively, are situated. These qualifications will not be waived under any circumstances except that all age limits are waived for honorably discharged soldiers, sailors, and marines.

REG. A–7. Whenever the interests of the Government require it, the Chief of the Forest Service, regional foresters, or forest supervisors may relieve a subordinate officer or employee from duty and may order his pay withheld pending action by the Secretary of Agriculture suspending, furloughing, or dismissing him from the service. Suspensions, furloughs, or dismissals ordered by the Secretary may become effective, with loss of pay, from the date upon which the officer or employee was relieved of duty.

REG. A–8. In general, the papers on file in the offices of the Forest Service relating to the transaction of national forest business are public records, and as such are open to the public. Information should not be refused to persons whose interest is legitimate. Recommendations on matters pending should not be made public. Equal opportunities for information must be given to all persons having an interest in any transaction. In conformity with the practice, and at the request of the Department of the Interior, all reports on public land claims will be treated as confidential, and may be examined only by duly authorized officers and employees of the Government. Reports on June 11 applications and personal reports are confidential, and may be examined only by duly authorized officers of the Government. Under no circumstances will inquirers be permitted to take papers from the files outside of the building.

REG. A–9. Permittees who use a national forest or portion thereof for like purposes and desire to cooperate with the Forest Service in the systematic betterment of conditions and facilities controlling their use of the national forest lands may do so by organizing themselves into associations, in which all permittees of like character within the area are eligible to membership, and requesting official recognition by the Forest Servce. The request should be addressed to the forest supervisor, who will act on all livestock association requests and refer all others to the regional forester. To secure such recognition the association must show that its membership includes a majority of all persons holding permits for like purposes within the area involved, and that an advisory committee has been appointed whose agreements on behalf of the association shall be binding upon all members thereof. If the association is recognized by the forest supervisor or regional forester its advisory committee shall be entitled to receive notice of proposed action and have an opportunity to be heard by the local forest officer in reference to any proposed changes likely to materially affect the use or interest in the forest or portion thereof enjoyed by members of the association.

Upon request from and with the approval of an officially recognized advisory committee the regional forester may establish special rules to prevent damage to the forest lands and to regulate their use and occupancy and promote their development and improvement for the purposes and in the ways for which permits are issued to members of the association, and the rules thus established shall be binding upon and observed by all permittees using the described forest lands for like purposes.

Upon request from and with the approval of a majority of the members of the association, the regional forester may authorize the operation, by the association, of services or utilities of general character and benefit which promote the better use and enjoyment of the forest lands by the permittees, and the collection from each permittee thus benefited of fees or charges which shall represent said permittee's fair share in the cost of such work including the expenses incident to its management and supervision, and failure of any permittee to pay such fees or charges shall be a breach of the terms of his permit.

Any association or other like organization of national or regional scope, the majority of whose members are persons, companies, and/or corporations engaged in commercial or industrial activities directly related to and influenced by the administration of the National Forests, or persons who furnish services or supplies essential to public use and enjoyment of the National Forests, may request recognition of its officers and directors as an advisory board, and upon presentation of satisfactory evidence that such advisory board is empowered to represent the members of the association in matters relat-

ing to national-forest management, it will be recognized by the regional forester if it is wholly regional in character or by the Chief of the Forest Service where it is inter-regional or national in character and thereafter will be consulted annually regarding any phase of national-forest management and use affecting the interests of the membership of the association. To facilitate action upon matters of local interest such advisory board may designate for each National Forest an advisory committee which shall be similarly consulted by the Forest Supervisor in matters relating to the particular National Forest.

REG. A–10. An appeal may be taken from any administrative action or decision by filing with the officer who rendered the decision a written request for reconsideration thereof or notice of appeal. Decisions of forest officers shall be final unless appeal is taken therefrom within a reasonable time. The decision appealed from shall be reviewed by the immediate superior of the officer by whom the decision was rendered; that is, in the following order: Supervisor, Regional forester, Chief of the Forest Service, Secretary of Agriculture.

Unless the written notice of appeals contains an acceptable reason for allowing a longer time for the preparation of the case, the appellant shall file immediately a statement or brief setting forth in detail the respects in which the action or decision from which appeal is taken is contrary to or in conflict with the law, the regulations of the Secretary, or the determined facts. Upon receipt of such statement or brief the officer from whose action or decision the appeal is made shall prepare a statement or brief reviewing the case and presenting the facts and considerations upon which his action or decision is based. The two statements or briefs, together with all papers comprising the record in the case, shall then be transmitted to the officer to whom the appeal is made, who will thereupon review the case and advise both the appellant and the subordinate officer of his decision.

In no case will an attorney be recognized in personnel matters.

REG. A–11. All forest officers will cooperate with State officials, in so far as practicable, to enforce State fire, game, and health laws. They are authorized to accept appointments, without compensation, as deputy State fire wardens, game wardens, and/or health officers whenever in the judgment of the Chief of the Forest Service the performance of the duties required by these offices will not interfere with their duties as Federal forest officers.

REG. A–12. The Forest Service, shall, whenever possible, and is hereby authorized to enter into such agreements with private owners of timber, with railroads, and with other industrial concerns operating in or near the national forests as will result in mutual benefit in the prevention and suppression of forest fires; provided, that the service required of each party by such agreements shall be in proportion to the benefits conferred.

ENGINEERING

REG. E–1. Applications for preliminary permits or licenses involving the use of Government land for water-power projects or for lines transmitting electric energy generated by water power shall be made pursuant to the Federal water-power act of June 10, 1920, (41 Stat. 1063), and the regulations thereunder, and shall be filed with the Federal Power Commission at Washington, D. C., or with any field office designated by the commission. Permits issued by the Secretary of Agriculture, the Chief of the Forest Service, and regional foresters outstanding on the date of the approval of that act and not superseded by permits or licenses issued thereunder shall be governed by the regulations and instructions in force on said date, except that no additional time under preliminary permits, no transfer of permits, and no changes involving the use of additional land shall be allowed.

FOREST MANAGEMENT

REG. S–1. No sale or other use of national forest timber will be authorized until the approving officer is satisfied that practicable methods of cutting are prescribed which will preserve the living and growing timber, promote the younger growth, reduce the hazard of forest fires and other destructive agencies, and secure as complete utilization of the various species and grades of material as the existing markets or the requirements of users permit.

REG. S–2. The Chief of the Forest Service shall have prepared and shall approve plans for the disposal of national forest timber, as such plans are found to be necessary, to insure by practicable units the production of a continuous supply of timber for the use and necessities of citizens of the United States. The Secretary of Agriculture will prescribe from time to time, upon data furnished by the Chief of the Forest Service, the maximum amount of matured and large-growth timber which may be cut by years or other periods on each national forest, and any plan for the disposal of timber approved by the Chief of the Forest Service shall not be incompatible with the limitations so established for the forest concerned. The Secretary of Agriculture will also issue such instructions as may be necessary in specific cases to insure an adequate and permanent supply of forest products for local requirements, or for established industries dependent upon national forest timber or to promote the welfare of local communities dependent upon national forest operations for employment. Unless prohibited by specific instructions from the Secretary of Agriculture, timber lawfully cut on any National Forest may be exported from the State or Territory where grown.

REG. S–3. The cutting of timber within the national forests may be authorized under sale or permit, or otherwise as prescribed by regulations:

1. On any vacant land.
2. On any abandoned mineral location.
3. On any unperfected lode location, or placer location on unsurveyed land, the boundaries of which are not marked and which show no substantial evidence of location or development.
4. On any unpatented claim with the written consent of the claimant.
5. On any unpatented claim, if necessary without the consent of the claimant, in emergencies arising from insect infestations or rapid deterioration of fire-killed timber.
6. On any unpatented mineral location made within a sale area subsequent to the first publication of the notice of the sale of the timber upon such area, or subsequent to the execution of the sale agreement or the issuance of permit affecting the timber upon such area not advertised.
7. On unapproved selections, unclassified grant lands, and other lands of unsettled status, in emergencies to prevent serious and unnecessary loss, upon submission of a bond by the operator to pay a stipulated price for the timber cut if title is not perfected adversely to the Government within a specified period.

Where allowed by law, timber may be cut without additional authorization by the claimant from any unperfected claim for its actual development or for uses consistent with the purposes for which the claim was entered. All other cutting is prohibited.

The cutting and removal of timber, when such cutting and removal does not obstruct actual mining operations, shall not be prevented or interfered with by any person asserting a claim to the use of such timber under an unpatented mineral location made subsequent to the first publication of the notice of sale including such timber, or subsequent to the execution of the sale agreement or the issuance of permit covering timber not advertised, or subsequent to the signing by the Secretary of Agriculture of a recommendation to the Secretary of the Interior for an exchange in which the timber will be given the proponent.

REG. S–4. Sales of timber in small quantities are preferred and will be encouraged by every means possible. In sales to establish manufacturing plants no more timber will be included in one contract than is required to permit logging a practicable and logical unit and to cover the cost of necessary logging improvements. Sales for the supply of new manufacturing plants will include the smallest quantity of timber, in economical logging units adapted to the type of operation, required to give the enterprise a practical and adequate commercial basis.

The period allowed for the removal of timber will be fixed in the agreement and will be sufficient to permit cutting the amount included in the sale at a rate practical and economical for the type of operation concerned with reasonable latitude for contingencies. In sales extending over three or more years the minimum amount to be removed during each year, or other designated period, will be specified. The maximum amount to be cut during each corresponding period will also be specified when necessary in the judgment of the approving officer to restrict the rate of cutting to the limitation prescribed by the Secretary of Agriculture for the forest or in the management plan for the working circle.

REG. S–5. The Chief of the Forest Service will prescribe from time to time the minimum stumpage prices at which timber on each national forest or designated portion thereof shall be appraised for commercial sale. Appraisals at less than any such established minimum shall be approved by the Chief of the Forest Service prior to the advertisement or sale of the timber. The minimum prices, however, will not apply to timber sold to homestead settlers and farmers under Regulation S–22, nor to timber sold under Regulation S–25 primarily to protect or improve the forest, nor to dead, fire-damaged, insect-infested, or badly diseased timber.

REG. S–6. Before any timber is advertised or sold it shall be examined and appraised and the cutting area described by legal subdivisions or otherwise. The examining officer shall report the quantity and appraised value of the various kinds of timber on the area and shall base his appraisal upon the character of the timber, the cost of logging, transportation, and manufacture, the investment required, the degree of hazard entailed in the operation, and the sale value of the manufactured products at practicable markets. He shall also report the contract conditions necessry for silviculture, fire protection, utilization, and other national forest interests.

Contracts exceeding five years in duration will contain provision for the redetermination of stumpage prices, after reappraisal, at intervals of not more than five years exclusive of any period which may be allowed for the construction of improvements; but contracts for large sales of pulpwood in Alaska may provide that the first redetermination of prices will be made after an interval of not more than 10 years exclusive of any period allowed for the construction of improvements.

REG. S–7. All sales in which the timber has a value in excess of $500 will be made only after advertisement for periods of from 1 to 6 months, in accordance with the quantity and value involved; and any sale of smaller value will be advertised or informal bids solicited from possible purchasers if, in the judgment of the officer authorized to make the sale, there is probability of competition. These requirements will not apply to sales at cost to settlers and farmers under Regulation S–22, and may be waived by regional foresters in sales made under Regulation S–25. The right to reject any or all bids will be reserved by the terms of each advertisement. A deposit must accompany each bid for advertised timber.

REG. S–8. Timber may be sold in amounts exceeding $500 in value in advance of advertisement in cases of unusual emergency. Emergency sale agreements will provide that the purchaser agrees to bid for the timber at not less than the appraised value as given in the sale advertisement, and will pay for all timber cut under the emergency sale agreement at the rate or rates of the highest bona fide bid submitted.

An unusual emergency exists if the applicant is in immediate need of timber for his own use or if immediate cutting is necessary on account of climatic conditions or logging requirements or rapid deterioration of the timber.

Where competition is probable, emergency sales will be made only when the need of the applicant is so serious as to justify giving him preference over other bidders in the award of the timber.

The emergency sale agreement will be approved by the officer having authority to approve sale agreements for the total amount of timber being advertised; but if the sale of the total amount being advertised must be authorized by the Chief of the Forest Service, regional foresters will secure the approval of the Chief of the Forest Service before approving the emergency sale of part of the timber, and regional foresters may require advance submission to them of all emergency sales.

REG. S–9. Advertised timber will be awarded to the highest bidder upon submitting satisfactory evidence of financial standing, unless:

1. Urgent considerations have arisen which make the sale undesirable, in which case all bids may be rejected.

2. Allotments to several bidders are practicable and advisable.

3. Award to a purchaser in an emergency sale at the highest price bid, or a division of the timber between such purchasers and other bidders, may be required by the existence of an emergency or in equity on account of operations previously begun on the sale area.

4. The highest bidder is notoriously or habitually careless with fire in his operations, or had failed to comply satisfactorily with the requirements of previous contracts for national forest timber.

5. Monopoly from the control of large amounts of public or of public and private timber would result.

6. The award would result in closing an established manufacturing plant operating in and dependent upon national forest timber, and would prevent an established operator from obtaining the benefit of substantial improvements made upon the faith and expectation of a continuous supply of such timber; or would be contrary to instructions previously issued by the Secretary of Agriculture for the management and use of the timber in question, with a view of furnishing a continuous supply of timber for the use and necessities of citizens of the United States; or would be against the interests of local users dependent upon national forest timber or of local communities dependent upon national forest operations for employment; or would cause the abandonment or prevent the establishment of a desirable local industry which should furnish a permanent market for national forest products.

Where the highest bid is not accepted and the sale is still deemed desirable, all bids will be rejected and the timber readvertised; or the award of the timber at the highest price bid will be offered to the next highest bidder when such award would not be contrary to the foregoing requirements: *Provided*, That in sales of timber for the local supply of isolated communities the advertisement and the award may be made, with the approval of the regional forester, on condition that manufactured products shall not be sold at prices in excess of maximum prices to be specified in the timber sale agreement.

Before examining timber on application or making an award, a statement of the relation of the applicant or bidder to other persons, firms, or corporations holding permits or agreements for the use of national forest resources may be required in the discretion of the approving officer. Firms or corporations may be required to furnish a certified statement of their members or stockholders.

REG. S–10. In all sales exceeding 10,000,000 feet, and in smaller sales when necessary in the judgment of the approving officer, the successful bidder will be required, prior to the award of the timber, to submit a satisfactory statement of financial ability to conduct the operation and fulfill the terms of the agreement, or his financial standing will be determined by forest officers; and in any sale the applicant or bidder may be required to show that he has or can obtain equipment suitable for logging and manufacturing the timber and meeting the fire precautionary requirements of the contract. Such statements may be required before advertisement or before steps are taken to examine areas applied for.

REG. S–11. Forest officers may, within their authorization, sell any timber previously advertised but not sold, without further advertisement, at not less than the advertised rates.

REG. S–12. The officer approving any timber sale agreement may require the purchaser to furnish a bond for satisfactory compliance with its terms.

REG. S–13. No timber shall be cut under any sale contract until it has been paid for. Refunds may, in the discretion of the Chief of the Forest Service or regional forester, be

made to depositors or to their legal representatives of sums deposited in excess of amounts actually due the United States. Refunds of payments may also be made to the rightful claimants of sums erroneously collected for timber or other forest products.

Transfers of deposits from one transaction to another, or from the credit of one purchaser to that of another with the written consent of the original depositor, may be made by the supervisor.

REG. S–14. The Chief of the Forest Service is authorized to make timber sales for any amount on any national forest, subject to the maximum cut fixed by the Secretary, and to delegate this authority for amounts not exceeding 50 million feet board measure to the regional foresters. The regional forester may delegate authority to subordinate officers to make sales for amounts not exceeding 10 million feet board measure. All supervisors may without special authorization make sales in amounts not exceeding $500 and may delegate this authority for amounts not exceeding $100 to subordinate officers.

The Chief of the Forest Service may authorize regional foresters to formally approve timber-sale agreements and related papers in sales exceeding 50 million feet board measure in which the conditions of sale have been previously approved by him.

REG. S–15. Modification of timber-sale agreements will not be allowed except in cases where the full performance of the agreement by the purchaser is rendered inequitable by some act of the United States or where the modification is sought in respect to the unexecuted portion of the agreement and will not be injurious to the United States. Modifications, where proper under this regulation, may be made by the officer approving the sale or by his superior officer.

No transfer or assignment of a timber-sale agreement shall be valid unless the transferee or assignee is acceptable to the United States as a purchaser of timber under the conditions and requirements then in effect for similar timber sales, and unless the transfer or assignment has been approved in writing by the forest officer who approved the sale agreement, or by his successor, authorized deputy, or superior officer. But by contractual stipulation a purchaser may be granted general authority to assign his timber-sale agreement in trust as security, subject, however, to such conditions as the Chief of the Forest Service imposes for the protection of the public interests.

REG. S–16. No live tree shall be cut under any timber-sale contract or permit until marked or otherwise designated for cutting by a forest officer.

The volume of national forest timber in a sale may be determined by scaling, measuring or counting the logs or other products, or by measuring the trees before cutting. If the contract provides for the determination of volume by tree measurement and the timber has been paid for, the stamping of the tree authorizes cutting and removal. Otherwise no timber cut under any contract shall be removed from the place designated until it has been scaled, measured, or counted and stamped by a forest officer, unless such removal is specifically authorized in the agreement.

No person except a forest officer shall stamp any timber belonging to the United States upon a national forest with the official marking ax or any instrument having a similar design.

The cubic volume rules and the Scribner Decimal C log rule, both as used by the Forest Service, are the official rules for scaling national forest timber.

REG. S–17. Timber sale agreements may be canceled for serious or continued violation of their terms. Cancellation will be by the Chief of the Forest Service if the amount of the sale exceeded the regional forester's authorization and by the regional forester in all other cases.

When such action is of advantage to the United States or not prejudicial to its interests and upon the application or with the consent of the purchaser, an agreement may be canceled by the Chief of the Forest Service or regional forester as above. If, further, the remaining timber is to be immediately resold at the same or better rates, the agreement may be canceled by the supervisor if the sale was for an amount not in excess of his authorization.

Agreements may be canceled by the Chief of the Forest Service only, upon the application of purchaser, when cancelation is shown to be required in equity to the purchaser (1) on account of some act of the United States, or (2) upon a review of the conditions existing at the date of sale in accordance with which its terms were fixed.

Agreements may also be canceled by the Forest Officer approving the sale, or his successor, upon application of the purchaser, if the condition of the timber has changed materially due to some cause such as a forest fire or insect infestation for which the purchaser is not responsible.

REG. S–17 (A). Applications for the termination, under the provisions of the Act of April 17, 1935 (Public No. 38, 74th Congress), of timber-sale agreements which were approved prior to June 30, 1934, will be considered if filed in the office of the supervisor of the National Forest concerned prior to April 17, 1936. Each such application must be accompanied by a statement showing in what ways hardship will be relieved or unemployment prevented if the requested action is taken.

Public notice of the application will be given by posting notice thereof in public places in the locality, giving a period of at least ten days during which protests may be filed with the forest supervisor.

The Chief of the Forest Service is authorized to terminate contracts in accordance with such applications, after investigation of the case of any protests which may have been filed, if the result of such action will be to relieve hardship or to prevent unemployment, without requiring the payment of damages other than those due to the acts of the purchaser.

The timber covered by contracts so terminated will thereupon be considered like any other National Forest timber, subject to retention or sale in accordance with the Regulations governing the management and sale of National Forest timber.

REG. S–18. Action for breach of contract may be brought for serious or continued violations of the sale agreement or where damages to the United States from violation of the agreement can not be recovered otherwise. Such action will be brought only with the approval of the Chief of the Forest Service.

REG. S–19. So far as applicable, the regulations governing timber sales will be followed in sales of naval stores.

The Chief of the Forest Service is authorized to make such sales for any amount on any national forest within the maximum limit fixed by the Secretary and to delegate this authority for amounts not exceeding 200,000 cups to regional foresters. Regional foresters may delegate this authority to supervisors for amounts not exceeding 40,000 cups.

Emergency sales will not be allowed.

REG. S–20. Seized material may be sold to the highest bidder under specific authority from the regional forester. If advertisement is impractical, sales of material exceeding $500 in value will be made on informal bids.

REG. S–21. The sale of forest products not specifically covered by other regulations will be conducted by forest supervisors under general instructions from the regional forester with reference to the class of material involved. Sales exceeding $500 in value will be advertised.

REG. S–22. Mature, dead, and down timber which can be cut without injury to the forest will be sold upon application without advertisement in any desired amount to homestead settlers and farmers, for domestic use on any homestead or farm, at the actual cost of making and administering such sales. The disposal of any part of such material for a money or other consideration, or in exchange for labor, services, or commodities, furnished the purchaser in connection with its cutting, removal, or manufacture or for any purpose except domestic use on the homestead or farm of the purchaser, is prohibited. If any of the foregoing requirements are violated, the sale will be terminated and the purchaser required to pay for all materials cut at twice its appraised market value.

The Chief of the Forest Service will determine from time to time the cost per thousand feet board measure or other

unit of making and administering such sales in each national forest region, where similar conditions exist, which amount will be uniformly taken on all forests in the region as the stumpage price in sales under this regulation.

Regional foresters may approve sales in any amount under this regulation, with prior review by the Chief of the Forest Service if required for similar amounts in commercial sales, and may authorize supervisors to make sales in any amounts not exceeding 200,000 feet board measure. Supervisors may authorize rangers to make sales in any amount not exceeding 50,000 feet.

REG. S–23. National forest timber may be cut and removed as a consideration for the transfer of lands to the United States under the act of March 20, 1922 (42 Stat. 465), or other laws authorizing the exchange of land for national forest timber. In all cases cuttings will be in accordance with the silvicultural, protective, and utilization requirements applicable to commercial sales of similar timber. The value of the timber will be determined by appraisal as in commercial sales before the proposed exchange is submitted to the Secretary of Agriculture for his consideration.

REG. S–24. The Chief of the Forest Service may authorize the cutting or use of national-forest timber for the construction, maintenance, or repair of roads, bridges, trails, telephone lines, drift fences, or other improvements of value for the protection or administration of the National forests, or for investigations, or for use in relief work conducted by public agencies.

REG. S–25. The Chief of the Forest Service may dispose of timber, the use or removal of which is necessary to protect the forest from injury or to improve conditions of growth, by sale, free use, or otherwise, as may be most advantageous to the United States.

This authority may be delegated to regional foresters, by them to supervisors, and by supervisors to their subordinates, in each case for amounts not in excess of those which these officers are authorized to dispose of by commercial sales, if payment is to be made for the timber; and, when no payment is required for the amounts, these officers are authorized by Regulation S–26 to grant individuals under free use.

REG. S–26. Free use may be granted to bona fide settlers, miners, residents, and prospectors for minerals, for firewood, fencing, building, mining, prospecting, and other domestic purposes. Free use of material to be employed in any business, as by sawmill operators or proprietors of stores, will be refused. The sale or exchange of timber or other forest products obtained under free use is prohibited.

Free use will be granted individuals primarily to aid in the protection and silvicultural improvement of the forests. Hence the material taken will, except in unusual cases, be restricted to dead, insect-infested, or diseased timber and thinnings. Other material may be taken in exceptional cases where its refusal would cause unwarranted hardship. On forests or parts of forests where limited supply or other conditions justify such action, the free use of green material may be refused. The aggregate amount of material granted under free use to any user, in any one calendar year, will not exceed $20 in value, except in cases of unusual need when the supervisor may increase the amount to not over $100 in value, and the regional forester to larger amounts.

Supervisors may designate portions or all of national forests as free-use area, and give public notice of their action. Settlers, miners, residents, and prospectors for minerals may cut and remove from these free-use areas, free of charge and without permit, under such rules as may be prescribed by the district ranger to prevent fire risks, injury to remaining timber, or confusion among users, any dead timber, or any green timber previously marked or designated by forest officers for the purpose, needed for their own use for domestic purposes. Similar material may be cut outside of a free-use area without permit in cases of emergency, but the person taking such material shall promptly notify the district ranger; and small quantities of material needed by transients while in the forest may also be taken without permit; but the kinds of material so taken and the location and manner of cutting must not be inconsistent with the purposes for which national forests are established. In all other cases permits will be required for green material.

Forest officers whom the supervisor may designate are authorized to grant free use of timber to individuals up to $20 in value. Supervisors may grant permits for material not exceeding $100 in value. Regional foresters may approve permits for larger amounts, and in times of emergency may delegate this authority to supervisors for not over $500 in value. Prior review by the Chief of the Forest Service will be given if the amount involved would require similar action in a sale.

Regional foresters may authorize supervisors to permit the removal of specific classes of material without scaling or measurement.

REG. S–27. Bona fide settlers, miners, residents, and prospectors for minerals in Alaska may take free of charge green or dry timber from the national forests in Alaska for personal use but not for sale. Permits will be required for green saw timber. Other material may be taken without permit. The amount of material granted to any one person in one year shall not exceed 10,000 board feet of saw timber and 25 cords of wood, or an equivalent volume in other forms. Persons obtaining material shall on demand forward to the supervisor a statement of the quantity taken and the location from which it was removed.

REG. S–28. National forest timber will be granted free of charge to other branches of the Federal Government when authorized by law. Permits may be approved by forest officers for amounts not greater than they are authorized to sell under Regulation S–14.

Permits for timber will require the cutting and removal to be done in accordance with the conditions in current timber-sale contracts in order to preserve the living and growing timber, promote the younger growth, secure reproduction, and protect the forest from fire. The permittee may be required to report to the supervisor the amount of timber, by species, actually cut or may be required to furnish scalers for work under the direction of the forest officer in charge or, if authorized, to provide funds for the employment by the Forest Service of scalers to scale or measure the timber cut. The permittee may be required to dispose of the brush as cutting proceeds, or to employ men to work under the direction of a forest officer in disposing of the brush, or, if authorized, to provide funds for the employment of men for brush disposal under the direction of a forest officer.

REG. S–29. Timber may, without advertisement, be cut, damaged, or destroyed when necessary for the occupancy of a right of way or other authorized use of national forest land.

Payment will be required at the appraised market value of the timber, subject to a minimum rate equivalent to the estimated cost of administration, except:

(1) For timber the logging and sale of which are impracticable, but which is necessarily killed or cut but not used by any permittee.

(2) For timber, either used or not used, necessarily killed or cut in connection with land uses of such benefit to the national forest that other timber would be granted under Regulation S–24 if needed by the permittee for construction purposes.

(3) For timber necessarily cut and used by the permittee if other timber would have been granted to him for the purpose under free use.

Title to any timber not used by permittee and for which no charge has been made will remain in the United States.

GRAZING

REG. G–1. The Secretary of Agriculture in his discretion will authorize the grazing of livestock upon the national forests under such rules and regulations as he may establish.

The Chief of the Forest Service will prescribe the number and class of stock to be grazed on any national forest on which grazing has been authorized by the Secretary.

REG. G–2. Every person must submit an application and secure a permit in accordance with these regulations before

his stock can be allowed to graze on a national forest, except as hereinafter provided and unless otherwise authorized by the Secretary of Agriculture. The Chief of the Forest Service may authorize the issuance of grazing permits for a term of years within a maximum of 10 years. A term permit shall have the full force and effect of a contract between the United States and the permittee. It shall not be reduced or modified except as may be specifically provided for in the permit itself and shall not be revoked or canceled except for violation of its terms or by mutual agreement. The grazing regulations shall be considered as a part of every permit.

The few head of livestock in actual use by prospectors, campers, and travelers, or used in connection with *permitted* operations on a national forest, or not to exceed 10 head of milch, work, or other animals owned and used for domestic purposes by bona fide settlers residing within or contiguous to a national forest may be allowed to graze free, under such restrictions as the Chief of the Forest Service may prescribe.

All stock grazed under paid *permit* on national forests must be actually owned by the *permittee*.

REG. G–3. Persons owning stock which will graze on range, only part of which is national forest land, may be granted permits for such proportions of their stock as the circumstances appear to justify, but may be required so to herd or handle their stock as to prevent trespassing by that portion for which a permit is not granted.

REG. G–4. Persons who own or have leased unfenced lands within any national forest, and who agree that the United States shall have exclusive possession of such lands, may secure permits allowing them to graze upon national forest land free of charge the number of stock which the private lands will support, provided such an exchange will not be disadvantageous to the Government. Such permits will be subject to the same restrictions regarding the use of the range as permits issued under other regulations.

REG. G–5. Persons wishing to drive stock across any portion of a national forest for any purpose may be required to secure a crossing permit. The Chief of the Forest Service in his discretion may authorize the issuance of permits free of charge or may establish a charge for crossing privileges.

REG. G–6. For purposes of equitable distribution, the stabilization of the stock industry, and the prevention of monopoly, the Chief of the Forest Service may authorize the establishment of protective, exemption, or maximum limits in numbers of stock for any area or areas.

The protective limit is the number of stock for which the permits of class A owners of improved farms devoted to the production of diversified crops or those who otherwise meet class A qualifications will be exempt from reduction in their renewal, except when sufficient reductions for range, forest, or watershed protection can not be made on preferences in excess of the protective limit.

The exemption limit is the number of stock below which the preference of no owner of dependent commensurate ranch property used primarily for the production of livestock will be reduced for purposes of distribution.

The maximum limit is the number of stock above which an increase in preference to any person, firm, or corporation may be refused. Maximum limits will apply with equal force and effect to preferences covering livestock the possession of which may be transferable under a lease, option, contract of purchase, or other form of agreement. The Chief of the Forest Service may authorize the regional forester to suspend the maximum limit or apply it to equitable interest in special cases.

REG. G–7. For the purpose of contributing to the stability of the livestock industry and making the forage resources of the national forests of the greatest value, the Chief of the Forest Service shall provide for the recognition of preferences in the use of national forest ranges and the renewing of permits, to an extent consistent with the prevention of monopoly and with the principle of a reasonable distribution of grazing privileges.

Persons who are full citizens of the United States shall be given preference in the use of national forest ranges over other persons.

The following classification of applicants for grazing privileges is hereby established:

Class A.—Persons owning and residing upon improved ranch property which is dependent upon the national forest, and who are owners of not more than the established exemption limit number of stock, or the protective limit number in the absence of an exemption limit.

Class B.—Prior users of national forest range who do not own improved ranch property, and persons owning such property who own stock in excess of the established exemption limit, or the protective limit in the absence of an exemption limit.

Class C.—Persons who are not regular users of national forest range and who do not own improved ranch property. This class can not acquire an established preference in the use of national forest range.

REG. G–8. To promote agricultural settlement and development, consistent with the reasonable stability of established preferences, grazing preferences may be granted and grazing permits issued to new class A applicants who are citizens of the United States (not including declarants and petitioners), own livestock and reside upon dependent improved ranch property. Persons who have waived any part of a previously established grazing preference will not be recognized as new applicants, nor granted any increase, where such action would necessitate a reduction in the preference of other established permittees.

When in his judgment the conditions warrant, the regional forester may close, for stated periods, forests or portions of forests to the admission of new applicants.

Where a forest or a portion thereof has not been closed to new applicants, and unless otherwise authorized by the Secretary of Agriculture, the Forester shall make provision for reductions in grazing preferences above the exemption limit, or the protective limit in the absence of an exemption limit, to provide new qualified class A applicants with range for numbers of stock not in excess of the protective limit or to increase preferences of class A permittees up to the protective limit.

REG. G–9. To facilitate legitimate business transactions, under conditions specified by the Chief of the Forest Service, and unless otherwise authorized or limited by the Secretary of Agriculture, and upon satisfactory evidence being submitted that the sale is bona fide, a purchaser of either the permitted stock or the dependent, commensurate ranch property of an established permittee will be allowed a renewal of permit in whole or in part, subject to the maximum limit restrictions, provided the purchaser of stock only, actually owns dependent, commensuate ranch property, and the person from whom the purchase is made waives to the Government his preference for renewal of permit. A renewal of permit on account of purchase from a grantee who has used the range less than three years will not be allowed.

A grazing preference is not a property right. Permits are granted only for the exclusive use and benefit of the persons to whom they are issued.

REG. G–10. A fee will be charged for the grazing of all livestock on national forests, except as provided by regulations, or unless otherwise authorized by the Secretary of Agriculture, or in cases where the Chief of the Forest Service may determine it is to the interest of the United States to permit free grazing.

The Chief of the Forest Service is authorized to determine the fair compensation to be charged for the grazing of livestock on the national forests, upon the basis of the following factors:

(1) A proper use of the grazing resource to best serve the public interest.

(2) Reasonable consideration of the value of the forage to the livestock industry.

(3) Effect of the rates upon the livestock producers.

An additional charge of 2 cents per head will be made for sheep or goats which are allowed to enter the national forests for the purpose of lambing or kidding.

No charge will be made for animals under six months of age at the time of entering the forest, which are the natural increase of stock upon which fees are paid or for those born during the season for which the permit is allowed.

REG. G–11. All grazing fees are payable in advance of the grazing period, unless otherwise authorized by the Chief of the Forest Service. Crossing fees are payable in advance of entering the national forest.

When an applicant is notified that his application has been approved, he will remit the amount due for the privilege to the designated United States depository. Persons who fail to pay the fees as above specified must notify the proper forest officer and give satisfactory reasons. Failure to comply with the above provisions may be sufficient cause for denying a grazing or crossing permit.

When a permittee is prevented from using the forest by circumstances over which he has no control or for some justifiable cause does not use the privilege granted him, in the discretion of the regional forester a refund of the fees paid will be made in whole or in part as the circumstances may justify and the Government's interests will permit.

REG. G–12. Under the Chief of the Forest Service's general instructions, the forests will be divided into grazing districts, the kind and number of stock to be grazed in each district determined, grazing seasons established, the entrance of stock regulated, range divisions between permittees made, and efficient methods of range use developed and applied with a view to the most equitable and profitable utilization of the forage consistent with its sustained productivity and with the protection of the forest and other related interests.

REG. G–13. Forest officers shall require methods of handling stock on the national forests designated to secure proper protection of the resources thereon and dependent interests, and may require the owners of livestock to give good and sufficient bond to insure payment for all damage sustained by the Government through violation of the regulations or the terms of the permit.

REG. G–14. To prevent nuisances and insure proper sanitary conditions on the national forests, the Chief of the Forest Service may require compliance with livestock quarantine regulations and such other sanitary measures as he may deem necessary.

Forest officers will cooperate with State, county, and Federal officers in the enforcement of all laws and regulations relating to livestock.

The Chief of the Forest Service may require the owners of all stock grazed under permit, or allowed to cross any national forest, to comply with the local livestock laws of the State in which the forest is located.

REG. G–15. (A) Special-use permits must be secured for all range improvements.

(B) When the proposed improvements are necessary for the efficient utilization of the range a clause will be included providing that title shall vest in the Government at the end of a 10-year period. Exceptions may be made where an agreement is reached on an adjustment-fee basis for some other period under paragraph (C).

(C) With the consent of a permittee who has constructed or maintained, or who may hereafter construct or maintain, range improvements which are necessary to the efficient utilization and management of national forest range, the Chief of the Forest Service may make an adjustment of the grazing fees for a period of years sufficient to recompense the permittee for the value of such improvements.

Acceptance of the provisions of paragraph (C) of the regulations is optional with the permittee or Chief of the Forest Service.

REG. G–16. The Chief of the Forest Service may provide for the receipt and disbursement of cooperative funds from stockmen for the improvement and protection of the range and other immediately related national forest interests which might otherwise be adversely affected by the grazing of livestock.

REG. G–17. The owners of all stock grazed on or allowed to cross any national forest must repair damage caused by their stock to roads, trails, springs, or other improvements. Failure to make prompt and adequate repairs, particularly after repeated notice, is sufficient grounds for suspending or revoking the offender's permit or preference in whole or in part.

REG. G–18. In order to secure a collective expression of the needs of persons holding grazing permits on national forests, or portions thereof, and to afford them a reasonable opportunity to share in the administration of grazing and secure joint action on the part of permittees, the Chief of the Forest Service will provide for recognition of and cooperation with State and local livestock associations under the provisions of Regulation A–9.

Whenever a national livestock association appoints an advisory board or committee representing users of the national forests in all of the different States, it will be recognized by the Chief of the Forest Service and consulted annually regarding matters which concern the use of national forest range.

REG. G–19. The Chief of the Forest Service may authorize the revocation of grazing permits or preferences in whole or in part for a clearly established violation of the terms of the permit, the regulations upon which it is based, or the instructions of forest officers issued thereunder.

REG. G–20. Forest officers will cooperate with State, county, and Federal officials in the enforcement of all laws and regulations for the protection of wild life.

Such forest officers as are specifically designated deputy game wardens by the laws of any State, or who shall be appointed lawfully to such positions, will serve in such capacity without additional pay and with full power to enforce the State laws and regulations relative to fur-bearing and game animals, birds, and fish.

Forest officers authorized to act as State deputy game wardens may accept the usual fees allowed for issuing hunting and fishing licenses. All forest officers are prohibited from accepting bounties or rewards or parts of fines offered by any person, corporation, or State for aid rendered in the enforcement of any Federal or State law relative to fur-bearing and game animals, birds, and fish.

REG. G–20 A. When the Secretary shall determine upon consideration of data and recommendations of the Chief of the Forest Service that the regulation or prohibition for a specified period of hunting and fishing upon any National Forest or portion thereof is necessary for the accomplishment of the purposes above set forth, he shall designate such National Forest or portion thereof, establish hunting and fishing seasons therefor, fix bag and creel limits, specify the sex of animals to be killed, fix the fees to be paid for permits, designate the authorized official to whom application for permit shall be made, and describe the terms and conditions under which hunting and fishing shall be conducted with a view of carrying out the purpose of this regulation. Public notice of such designation shall be given by such means as the Chief of the Forest Service shall deem adequate for the purpose. Carcasses of animals or fish taken under permit shall be marked or tagged for identification as directed by the Chief of the Forest Service.

REG. G–21. For the purpose of receiving suggestions and complaints regarding the administration of grazing on a national forest or group of national forests, investigating all facts relating thereto, and assisting, advising, and consulting with forest officers on matters of general interest to permittees, the Chief of the Forest Service may authorize the regional forester to approve grazing boards for a national forest or group of national forests.

Boards created for a national forest shall consist of three members, and for a group of national forests of five members. One member of each board shall be an employee of the Department of Agriculture and shall act as chairman. The other members shall be representatives of and selected by the permittees pasturing the class or classes of livestock grazed on the national forest or group of national forests. The board shall meet upon call of the chairman at such times and places as he may designate by giving written notice to all members of the board at least 10 days before

the proposed date of meeting. The position of any member of the board who fails to attend two successive meetings, unless he is prevented by circumstances over which he has no control, may in the option of the board be declared vacant. Any vacancy in the board shall be filled in the same manner as herein prescribed for the original appointment. A majority of the members of the board shall constitute a quorum for the transaction of business and a majority vote of the members present at a meeting shall constitute a decision of the board.

Appeal to the board from any administrative order, action, or decision of forest officers pertaining to the grazing of livestock on a national forest or forests within the jurisdiction of the board may be taken by any recorded applicant, permittee, or recognized advisory board of a duly recognized livestock association. Decisions of the board will be final unless a minority opinion, which shall be a complete statement of the points to which dissent is made and the reasons therefor, is filed with the regional forester by one or more members of the board or the appellant within 20 days from the date of the board's decision, in which event the regional forester will review the case and render a decision. If dissatisfied with the regional forester's decision the board, or the dissenting members thereof, or the appellant, may then appeal in the manner prescribed by Regulation A–10.

REG. G–22. (A) Any person desiring to hunt or take game or nongame animals, game or nongame birds, and fish, upon any National Forest lands or waters embraced within the boundaries of a military reservation or a national game or bird refuge, preserve, sanctuary, or reservation established by or under authority of an Act of Congress, shall procure in advance a permit from the Forest Supervisor. The permit shall be issued for a specified season, shall fix the bag or creel limits, and shall prescribe such other conditions as the Regional Forester may consider necessary for carrying out the purposes for which such lands have been set aside or reserved.

(B) Forest officers will cooperate with persons, firms, corporations, or State and county officials in the protection, administration, and utilization of game and nongame animals, game and nongame birds, and fish, upon National Forest lands of the character referred to in paragraph (A) hereof. The Chief of the Forest Service may authorize the acceptance of contributions from cooperators for the payment of expenses incurred in carrying out the provisions of this regulation.

(C) When necessary for the protection of the Forest or the conservation of animal life, the Chief of the Forest Service may sell, barter, exchange, or donate game and nongame animals. When the interests of game conservation will be promoted thereby, the Chief of the Forest Service may accept donations of game and nongame animals, game and nongame birds, and fish, or the eggs of birds and fish.

LANDS

REG. L–1. All uses of National-forest lands and resources, except those provided for in regulations governing the disposal of timber and grazing of livestock, will be designated "special uses." Permits for the excavation of antiquities under the act of June 8, 1906 (34 Stat. 225), and for the lease of lands under the act of February 28, 1899 (30 Stat. 908), may be granted only by the Secretary of Agriculture. All other permits for special uses may be granted by the Chief of the Forest Service, or by the regional forester, supervisor, or ranger as instructed by the Chief of the Forest Service, and subject to such conditions as to area, time, charges, and other requirements as may be provided by these regulations and the instructions issued thereunder.

All special-use permittees must comply with all State and Federal laws and all regulations of the Department of Agriculture relating to the National forests, and conduct themselves in an orderly manner.

A special-use permit may be terminated, with the consent of the permittee, or because of nonpayment of fees due, by the officer by whom it was issued or by his successor, but may be revoked only by the Secretary of Agriculture or by an officer of the Forest Service superior in rank to the one by whom the permit was issued. Appeals from action relating to special-use permits may be taken as provided in Regulation A–10. (See administrative section of the manual.)

A permit may be transferred with the approval of the officer who granted it, or his successor. Hotels and resorts may be sublet with the approval of the regional forester.

Public-service enterprises, such as hotels and resorts operating under either term or terminal special-use permits, must conform to such requirements respecting rates and services as the Secretary of Agriculture may make in the interest of the public.

Rights of way for power-transmission lines and for telephone and telegraph lines granted under the act of March 4, 1911 (33 Stat. 1253), shall be subject to the conditions that the grantee shall execute such stipulations for the protection of the national forest, pay such charge, furnish such facilities to Forest Officers, and/or permit such reasonable use of its poles and lines for official purposes, as may be required by the regional forester.

REG. L–2. Special-use permits for the following purposes will be issued without charge:

(A) Excavation of antiquities under the act of June 8, 1906.

(B) Public uses by any department or branch of the Federal or State Governments, including municipalities when no profit is to be derived from said uses.

(C) Cemeteries, churches, and schools.

(D) Lands occupied for semipublic purposes by associations or organizations where such lands are open to the use of the public upon a noncommercial or nonprofit-making basis, including lands occupied by shelter huts, community houses, camp grounds, etc., open to free use by the public.

(E) Cabins for the use of miners, prospectors, trappers of predatory animals, stockmen in connection with grazing permits, and other permittees for temporary use in connection with other authorized uses, provided that cabins used during the entire year as headquarters will be classified as residences and charged for accordingly.

(F) Corrals, stock tanks, shelters, dipping vats when no toll is charged, drift, division, pasture, or other fences required for the proper management of permitted stock which are subject to free use by all authorized permittees and do not give control of range to the exclusion of any stock entitled to its use.

(G) Logging railroads, flumes, tramways, inclosures, sawmills, kilns, and other improvements necessary to the manufacture of lumber or other products from timber obtained principally from the national forests.

(H) Conduits, dams, reservoirs, pumping stations, or any water development projects for municipal, domestic, irrigation, mining, railroad, stock-water, or other purpose of public value. (Where the use of watersheds involves special forms of administration or utilization of forest production, specific agreements with equitable provisions for compensation will be required.)

(I) Telephone lines with free use and free connection by Forest Service. Telegraph lines with free use of poles for attaching thereon Forest Service telephone lines.

(J) Roads and trails which are free public highways, and airports and air navigation facilities which are open to the free use of the public.

(K) Stone, earth, and gravel used for projects constructed under permits; or for the construction or maintenance of public roads and trails; or by bona fide settlers, miners, and prospectors for building purposes by such persons.

(L) Fish hatcheries of a noncommercial nature.

(M) Camp-fire permits on forests when required.

(N) Sewage systems.

(O) Signs (see instructions.)

(P) Use or occupancy of land in a national forest created under the authority of section 9 of the act of June 7, 1924, where needed cooperation will thus be secured in promoting the production of timber.

REG. L–3. Special-use permits, except as provided in Regulation L–2, or otherwise authorized by the Secretary of

Agriculture, shall be conditioned upon the payment of an annual charge. The rates of charge and maximum limitations of area shall be prescribed by the Chief of the Forest Service, except for the use of lands under the act of February 28, 1899, for hotels and dwellings adjacent to mineral and medicinal springs which shall be determined by the Secretary of Agriculture.

In case of sale of improvements and reissuance or transfer of permit to the purchaser, any payments made upon the original permit may apply on the new permit, in the discretion of the forest officer issuing the permit.

REG. L–4. A group of special-use permittees who occupy national forest lands for summer homes or other residential purposes, not directly connected with timber sales, grazing permits, or water-power development, which has been accorded recognition under the provisions of Regulation A–9, may be given permits to erect, provide, and maintain special improvements or service essential to the common good. Permits so issued may, in the discretion of the regional forester, provide by stipulation and agreement embodied therein that if the total cost of the improvements and service provided and maintained thereunder is met by the association, no part being contributed by the United States except free-use material, all persons authorized to occupy the area for such summer home or residential purposes and thus share in the benefits from the improvements or service authorized by the permits, shall thereafter be required to pay into the treasury of the association their pro rata share of the cost. Similar permits may be issued for Government-owned improvements with the payment provision limited to cost of maintenance or necessary extensions or betterments.

REG. L–5. In serious emergencies for the protection of life or property, national forest lands may be occupied or used, without previous permits, provided a permit for the special use involved is subsequently secured at the earliest opportunity.

REG. L–6. Lands purchased under the provisions of the act of March 1, 1911, are not subject to location or entry under the general mining laws. Preliminary prospecting for mineral on such lands may be carried on without permit, but no extensive excavations shall be made, structures erected, or mineral removed, nor can any exclusive rights be acquired except under permits issued under special regulations approved by the Secretary of Agriculture, which required the payment of fees, rentals, and royalties commensurate with the value of the mineral resources.

REG. L–7. The right of way over national forest land for any State or county highway or road which is a part of the approved system of public roads shall be two chains in width for roads of class 1 or class 2, and one chain in width for roads of class 3 or other county roads of a secondary character; the center line of the highway or road to be the center line of the right of way except where otherwise provided by permit. National forest lands within the limits of such right of way shall continue to be administered by the Forest Service, but their use for highway or road purposes shall be the dominant use, and no occupancy for other purposes shall hereafter be authorized by the forest supervisor or regional forester unless approved and concurred in by the appropriate State or county officials, but if agreement can not be reached regarding other forms of use or occupancy regarded by the regional forester as essential to the proper use and management of the national forest the matter shall be submitted to the Secretary of Agriculture for final decision.

Approval by the Secretary of Agriculture of a forest highway construction program is ipso facto an authorization for the occupancy of national forest lands by the highways included in such construction program, but where a permit for a project included within a forest highway program is desired by a State or county as a means of meeting legal or fiscal requirements, or as a basis for the execution of road contracts, such permit shall be issued by the regional forester and shall contain such conditions or be supported by such stipulations as may be necessary adequately to protect national forest interests.

For highway or road projects which are not parts of an approved forest highway program permits from the regional forester will be required. Before construction is initiated a plat showing the definite location of the proposed highway or road shall be filed with the forest supervisor, who will determine the effect of the project upon national forest interests and the changes in location or other features necessary adequately to safeguard such interest, and will transmit the plat and his report thereon to the regional forester. If changes recommended by the supervisor are approved by the regional forester but cannot be adjusted satisfactorily with the proponents of the road, an appeal may be taken under the provisions of Regulations A–10. If the proposed location and other features of the project are approved by the regional forester, a permit shall be issued, without charge, containing such conditions or supported by such stipulations as may be necessary for the protection of the national forest lands.

Trails may be constructed without formal permit if done with the consent and under the supervision of a forest officer, except that in the national forests in Alaska such consent and supervision will not be required. No toll shall be charged for the use of roads or trails over national forest lands, and the same shall be open to free public use unless otherwise specifically authorized by the Secretary of Agriculture, but a road built under permit at private expense to promote the construction of an important project may be temporarily closed to public use by order of the regional forester if its unrestricted use is dangerous to public safety or unduly interferes with the primary purposes for which it was built.

Roads traversing national forest lands, which are not parts of State or county highway systems and which are constructed and maintained wholly at the expense of the Federal Government and its private cooperators, may, in the discretion of the regional forester, be designated by him as special service roads, and upon roads so designated the operation of commercial automobile stages or motor trucks for the regular transportation of either passengers or freight, except as authorized by permit issued by the regional forester, is prohibited, but such prohibition shall not apply to occasional use by taxicabs or by automobiles or motor trucks owned or hired by persons for personal use or the transportation of their personal effects.

REG. L–8. Persons who have title to or have leased from the owners unfenced lands within the national forests may, upon waiving their right to the exclusive use of such private land and allowing it to remain open to other stock grazed on national forest lands under permit, be permitted without charge to inclose and use not to exceed 640 acres of national forest land when such an arrangement will be advantageous to the administration of the national forest and the grazing value or capacity of the land to be inclosed does not exceed that of the private land.

The application must be accompanied by a personal certificate of title showing the description and ownership of the land, and, if leased from an owner, a copy of the lease, and must describe the national forest land it is desired to occupy. Permits will be subject to the same restriction as those issued under other regulations.

REG. L–9. The term "special-use permits" under the act of March 4, 1915, cannot exceed 5 acres in area nor 30 years in duration. They may be granted to responsible persons or associations desiring to occupy lands in the national forests for the purpose of constructing thereon summer homes, hotels, stores, or other structures needed for recreation or public convenience, either by the regional foresters or by forest supervisors to whom the regional forester, by letter, has extended specific authority to personally approve term permits within certain prescribed limitations of time, place, or value.

REG. L–10. Any individual, firm, or corporation which, under authority of a special-use permit, has constructed upon national forest lands within the Territory of Alaska permanent and substantial improvements for purposes of trade, manufacture, or other productive industry, with reasonable prospects of the establishment of a permanent industry, may apply for the elimination from the national forests of the lands so occupied in order that such lands may be entered by the applicant under the provisions of

section 10 of the act of May 14, 1898 (30 Stat. 413). If, upon investigation, it is determined by the Secretary of Agriculture that permanent and substantial improvements designed for trade, manufacture, or other productive industry, exceeding in value the estimated value of the lands for national forests, have, in fact, been lawfully constructed with reasonable prospects of establishing a permanent industry, the elimination from the national forests of the lands so occupied, not exceeding a total of 80 acres in any single area, will be recommended.

MANAGEMENT OF MUNICIPAL WATERSHEDS

REG. L–11. When necessary for the protection of water supplies of towns, cities, or irrigation districts, the Secretary of Agriculture will enter into formal agreements with the properly authorized officials of the town, city, irrigation district, or private corporation, or with the owners of privately owned lands within the watershed, to restrict the use of the national forest lands from which the water supplies are derived. The forms of use to be restricted, the nature and extent of the restrictions, the special protective measures which may be necessary or desirable, the assistance to be given the Forest Service in the enforcement thereof by the town, city, district, private corporation, or owners of land, and the payments, if any, which shall be made to compensate the United States for losses of revenue resulting from the restrictions, will all be clearly and specifically defined in the agreement.

LAND CLASSIFICATION

REG. L–12. New areas of public lands added to the national forests will without delay be classified in accordance with the requirements of the act of August 10, 1912 (37 Stat. 269).

SETTLEMENT

REG. L–13. National forest lands are not subject to settlement under the homestead law unless and until they have been listed and formally declared open to entry. All national forest lands classified under the act of August 10, 1912, as being chiefly valuable for agriculture will be listed promptly with the Secretary of the Interior for homestead entry under the act of June 11, 1906.

REG. L–14. On receipt of a request for the listing of lands under the act of June 11, 1906, the forest supervisor will ascertain whether the land has been classified under the act of August 10, 1912. If the land has been classified as chiefly valuable for agriculture and has been listed under the act of June 11, 1906, the applicant will be informed accordingly, and referred to the appropriate local land office. If it has been classified as not chiefly valuable for agriculture the applicant will be advised that the land cannot be listed under the act of June 11, 1906. Such action will be final unless a request for review of the classification, in the manner provided by the instructions on that subject, is filed with the forest supervisor within a reasonable time after receipt of his advice that the land is classified as nonlistable.

REG. L–15. Lands within projects which are in process of classification under the act of August 10, 1912, and lands previously classified as not chiefly valuable for agriculture, is found to be in fact agricultural and listable in character, ordinarily will be listed without the naming of a preferred applicant so that all qualified citizens may enjoy equal opportunity to make entry and no misuse of official information may occur; but if, in the judgment of the Secretary of Agriculture, an applicant possesses substantial equities in the lands to be listed, not established by willful or intentional violation of laws or regulations, or has rendered a substantial public service by presenting previously unknown facts resulting in the correction of an error in classification, such person will be named as the preferred applicant in the listing letter.

REG. L–16. All applications by Indians for allotment of lands within the national forests, under section 31 of the act of June 25, 1910 (36 Stat. 863), which are submitted to the Secretary of Agriculture, in order that he may determine whether the land applied for should be made subject to appropriation by allotment, must be made in the form prescribed by the regulations of the Secretary of the Interior governing Indian allotments on national forests.

CLAIMS

REG. L–17. No forest officer shall request a homestead entryman to relinquish his claim or suggest for any reason whatsoever that such a course is desirable. If any homestead entryman voluntarily offers to relinquish his claim, the forest officer may suggest that the relinquishment be transmitted to the local land office, but shall not encourage this to be done. Forest officers who receive by mail relinquishments from claimants must return the same, with the suggestion in every case that if the entryman desires to relinquish he should send the relinquishment to the local land office. No forest officer shall be a party to a compromise whereby any claims or trespass case is settled by requiring the claimant to relinquish a claim to the United States.

When relinquishments are offered which cover lands needed for administrative purposes, and when it is desired to pay the claimant for improvements thereon, a recommendation, accompanied by the reasons in each specific case, shall be submitted to the Chief of the Forest Service, who may authorize the purchase of the improvements upon the filing of the relinquishment in the local land office.

REG. L–18. Whenever the Secretary of Agriculture shall determine that the use of any portion of the surface of the lands included in a mining location within a national forest is required for the administration, protection, or improvement of the national forest, and may be so used without interfering with the development of the mineral resources of such claim, such lands shall, prior to the allowance of mineral entry, be subject to use by the United States, or its permittees, for the purposes named.

RECREATION

REG. L–19. Public camp grounds established upon National forest lands which are improved by the Forest Service, either from appropriations made for such purposes or in cooperation with other public or private agencies, are for transient use by the traveling public and shall not be occupied for extended periods except under special-use permit issued by the forest supervisor. When the public interest so requires, the regional forester may fix a maximum number of days during which any person or group of persons may occupy a designated camp ground, notice of which shall be given by a sign posted within said camp ground, and occupancy of the camp ground for a period in excess of that established by the regional forester is prohibited.

EXPERIMENTAL FORESTS AND RANGES

The Chief of the Forest Service shall determine, define, and permanently record a series of areas of national forest land to be known as experimental forests sufficient in number and extent adequately to provide for the experimental work necessary as a basis for forest production or forest and range production in each forest region, these areas to be dedicated to and used for research; also where necessary a supplemental series of areas for range investigations to be known as experimental ranges; and a series to be known as natural areas sufficient in number and extent adequately to illustrate or typify virgin conditions of forest or range growth in each forest or range region, to be retained in a virgin or unmodified condition for the purposes of science, research, and education; and a series of areas to be known as primitive areas, and within which will be maintained primitive conditions of environment, transportation, habitation, and subsistence, with a view to conserving the value of such areas for purposes of public education and recreation. Within any areas so designated, except for permanent improvements needed in experimental forests and ranges, no occupancy under special-use permit shall be allowed, or the construction of permanent improvements by any public agency be permitted, except as authorized by the Chief of the Forest Service or the Secretary.

TRESPASS

REG. T–A. Interfering on lands of the United States within a national forest, by intimidation, threats, assault, or other-

wise, with any person engaged in the protection, improvement, or administration of the national forests is hereby prohibited.

FIRE TRESPASS

REG. T–1. The following acts are prohibited on lands of the United States within national forests:

(A) Setting on fire or causing to be set on fire any timber, brush, or grass, except as authorized by a forest officer.

(B) Building a camp fire in leaves, rotten wood, or other places where it is likely to spread, or against large or hollow logs or stumps, where it is difficult to extinguish it completely.

(C) Building a camp fire in a dangerous place, or during windy weather, without confining it to holes or cleared spaces from which all vegetable matter has been removed.

(D) Leaving a camp fire without completely extinguishing it.

(E) Building a camp fire on those portions of any national forest which have, with the approval of the regional forester, been designated by the respective supervisors thereof without first obtaining a permit from a forest officer.

(F) Using steam engines or steam locomotives in operations on national forest lands under any timber-sale contract or under any permit, unless they are equipped with such spark arresters as shall be approved by the forest supervisor, or unless oil is used exclusively for fuel.

(G) Disturbing, molesting, interfering with by intimidation, threats, assault, or otherwise, any person engaged in the protection and preservation of a national forest.

(H) Smoking during periods of fire danger publicly announced by the regional forester upon such areas as may be designated by him, which may include roads and trails and improved camping grounds but shall not include improved places of habitation.

(I) Going or being upon those portions of the national forest which may be designated by the regional forester as areas of fire hazard, except with permit issued by the local forest officer, but no permit shall be required of any actual settler going to or from his home.

(K) Using an automobile not provided with exhaust and muffler equipment in efficient condition on any road over lands of the United States within national forests, or on any road acquired or maintained by the Secretary of Agriculture for the protection and administration of the national forests, which shall have been posted by the Secretary of Agriculture as closed to such automobiles.

(L) Carrying a firearm, except by authorized Federal or State officers, upon any portion of any national forest designated by the regional forester in time of fire or other public emergency.

(M) The throwing or placing of a burning cigarette, match, pipe heel, firecracker, or any ignited substance in any place where it may start a fire; and the discharging of any kind of fireworks on any portion of a national forest closed by order of the regional forester to the discharging of fireworks.

(N) Going or being upon those portions of the national forests which may be designated by the regional forester as areas of fire hazard, unless registered previously to entering upon such areas, at points designated by the local forest officer, but such registration shall not be required of any actual settler going to or from his home.

(O) Going or being upon any portion of a national forest designated by the regional forester as an area of fire hazard without being equipped with fire-fighting tools, such as axes, shovels, and similar implements of the kind and number prescribed by the regional forester, when means of conveyance, such as an automobile or pack outfit are available for carrying such tools. In the case of a camping party the person in charge will be held responsible for any violation hereof.

REG. T–2. Hereafter, provided Congress shall make the necessary appropriation or authorize the payment thereof, the Department of Agriculture will pay the following rewards:

FIRST. Not exceeding $500 and not less than $100 for information leading to the arrest and conviction of any person on the charge of willfully and maliciously setting on fire, or causing to be set on fire, any timber, underbrush, or grass upon the lands of the United States within or near a national forest.

SECOND. Not exceeding $300 and not less than $25 for information leading to the arrest and conviction of any person on the charge of building a fire on lands of the United States within or near a national forest, in or near any forest timber or other inflammable material, and leaving said fire before the same has been totally extinguished.

THIRD. All officers and employees of the Department of Agriculture are barred from receiving reward for information leading to the arrest and conviction of any person or persons committing either of the above offenses.

FOURTH. The Department of Agriculture reserves the right to refuse payment of any claim for reward when, in its opinion, there has been collusion or improper methods have been used to secure the arrest and conviction thereunder, and to allow only one reward where several persons have been convicted of the same offense or where one person has been convicted of several offenses, unless the circumstances entitle the claimant to a reward on each such conviction.

These rewards will be paid to the person or persons giving the information leading to such arrests and convictions upon presentation to the Department of Agriculture of satisfactory documentary evidence thereof, subject to the necessary appropriation, as aforesaid, or otherwise, as may be provided for by law.

Applications for reward, made in pursuance of this notice, should be forwarded to the Chief of the Forest Service, Washington, D. C.; but a claim will not be entertained unless presented within three months from the date of conviction of an offender.

In order that all claimants for reward may have an opportunity to present their claims within the prescribed limit, the department will not take action for three months from date of conviction of an offender.

PROPERTY TRESPASS

REG. T–3. The following acts are prohibited on lands of the United States within a national forest:

(A) The willful tearing down or defacing of any notice of the Forest Service.

(B) The going or being upon such lands with intent to destroy, molest, disturb, or injure property used, or acquired for use, by the United States in the administration of the national forests.

(C) Destroying, molesting, disturbing, or injuring property used, or acquired for use, by the United States in the administration of the national forests.

(D) Mutilating, defacing, or destroying objects of natural beauty or of scenic value on such lands.

(E) Damaging and leaving in a damaged condition roads or trails which are under the jurisdiction of the Forest Service.

(F) Entering, occupying, or using, without permission from a forest officer, any building of the United States used by the Forest Service in connection with the administration of a national forest, except in case of emergency to prevent suffering.

(G) Leaving any building of the United States used by the Forest Service in connection with the administration of a national forest without placing the same in a condition as sanitary as when entered.

(H) Driving prohibited vehicles upon any road or trail which is not a part of a State or county highway system and is located upon national forest lands during any period when such road or trail has been closed to vehicular traffic by authority of the regional forester through the posting of proper notices of that fact along said road or trail, but nothing herein contained shall deprive actual residents within the national forests from reasonable opportunity to travel to and from their homes.

REG. T–4. Hereafter, unless otherwise ordered, provided Congress shall make the necessary appropriation, or authorize the payment thereof, the Department of Agriculture will pay not exceeding $100 and not less than $25 for information leading to the arrest and conviction of any person charged

with destroying or stealing any property of the United States within the custody of the Chief of the Forest Service, Forest Service, United States Department of Agriculture.

This reward will be paid to the person or persons giving the information leading to such arrest and conviction upon presentation to the Department of Agriculture of satisfactory evidence thereof, subject to the necessary appropriation as aforesaid, or otherwise as may be provided.

Officers and employees in the Department of Agriculture are barred from receiving such rewards.

The Department of Agriculture reserves the right to refuse payment of any claim for reward when, in its opinion, there has been collusion or improper methods used to secure arrest and conviction, and to allow only one reward where several persons have been convicted of the same offense or where one person has been convicted of several offenses, unless the circumstances have entitled the person to a reward on each conviction.

Applications for reward, made in pursuance of the above notice, should be forwarded to the Chief of the Forest Service, Washington, D. C., but no claim will be considered unless presented within three months from the date of conviction of an offender. In order that all claimants for rewards may have an opportunity to present their claims within the prescribed limit, the department will not take action with respect to rewards for three months from the date of the conviction of an offender.

TIMBER TRESPASS

The following acts are prohibited on lands of the United States within national forests:

(A) The cutting, killing, destroying, girdling, chipping, chopping, boxing, injuring, or otherwise damaging, or the removal of any timber or other forest product, except as authorized by law or regulation of the Secretary of Agriculture.

(B) The damaging or cutting under any contract of sale or permit, of any living tree before it is marked or otherwise designated for cutting by a forest officer.

(C) The removal from the place designated for scaling, measuring, or counting of any timber or other forest product cut under contract of sale or permit until scaled, measured, or counted, and stamped by a forest officer.

(D) The stamping, except by a forest officer, of any timber belonging to the United States, either with the regulation marking tools or with any instrument having a similar design: *Provided,* That timber lawfully cut from public land which is subsequently included within a national forest may be removed within a reasonable time after the inclusion of such land in a forest.

GRAZING TRESPASS

REG. T–6. The following acts are prohibited on lands of the United States within national forests:

(A) The grazing upon or driving across any national forest of any livestock without permit, except such stock as are specifically exempted from permit by the regulations of the Secretary of Agriculture, or the grazing upon or driving across any national forest of any livestock in violation of the terms of a permit.

(B) The grazing of stock upon national forest land within an area closed to the grazing of that class of stock.

(C) The grazing of stock by a permittee upon an area withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of the stock, after the receipt of notice from an authorized forest officer of such withdrawal and of the amendment of the grazing permit.

(D) Allowing stock not exempt from permit to drift and graze on a national forest without permit.

(E) Violation of any of the terms of a grazing or crossing permit.

(F) Refusal to remove stock upon instructions from an authorized forest officer when an injury is being done the national forest by reason of improper handling of the stock.

HUNTING AND FISHING TRESPASS

REG. T–7. The following acts are prohibited on lands of the United States within national forests:

The going or being upon any such land, or in or on the waters thereof, with intent to hunt, catch, trap, willfully disturb or kill any kind of game or nongame animal, game or nongame bird, or fish, or to take the eggs of any such bird in violation of the laws of the United States or any regulation made in pursuance thereof, or of the laws of the State in which such lands or waters are situated.

REG. T–8. The following acts are prohibited upon any national forest lands embraced within the boundaries of a national game or bird refuge, preserve, sanctuary, or reservation, established by or under authority of an act of Congress:

(A) Hunting, trapping, catching, disturbing, or killing any kind of game or nongame animal, or game or nongame bird, or taking the eggs of any such bird, except when authorized by permit issued by, or under the authority of, the Chief of the Forest Service.

(B) Carrying or having possession of firearms, without the written permission of the forest supervisor or such other officer as he may designate.

(C) Permitting dogs to run at large, or having in possession dogs not in leash or confined.

(D) Camping without permit issued by a forest officer, except on areas designated as public camp grounds, or other areas which may be specifically excepted by the regional forester.

OCCUPANCY TRESPASS

REG. T–9. The following acts are prohibited on lands of the United States within national forests:

(A) Squatting or making settlement thereon, except in accordance with the act of June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves."

(B) Constructing or maintaining any kind of works, structure, fence, or inclosure; conducting any kind of business enterprise or carrying on any kind of work without a permit, except as otherwise allowed by law or regulation, and except upon a claim for the actual use, improvement, and development of the claim consistent with the purposes for which it was initiated.

(C) The placing by any person, association, or corporation, without written permission from a forest officer, of stock within an inclosure designated by the Forest Service as a pasture for tourists' stock, and allowing such stock to remain in the inclosure for more than 48 hours in succession, or more than twice during any calendar year.

(D) Having or leaving in an exposed or insanitary condition on national forest lands camp refuse or debris of any description, or depositing on national forest lands or being or going thereon and depositing in the streams, lakes, or other waters within or bordering upon the national forests any substance or substances which pollute or are liable to cause pollution of the said streams, lakes, or waters.

(E) The discharging of firearms in the vicinity of camps, residence sites, recreation grounds and areas, and over lakes or other bodies of water adjacent to or within such areas, whereby any person is exposed to injury as a result of such discharge.

(F) Going or being upon, or taking, transporting, or allowing cattle, sheep, hogs, or other animals on, any lands within a national forest to which the United States has legal or equitable title which are closed to use by the regional forester because of danger from the spread of any communicable or infectious disease of cattle, sheep, hogs, or other animals, such as foot-and-mouth disease or scabies except under permit issued by a forest officer not in conflict with a State or Federal quarantine law or regulation; but no permit shall be required of any actual resident within the national forest going to or from his home, if unaccompanied by any animals.

(G) Occupying a public camp ground upon national forest lands for a period of time in excess of that established by the regional forester under the provisions of Regulation L–19.

(H) The operation of motor boats on artificial bodies of water without adequate devices to prevent unnecessary noises, and/or at a rate of speed in excess of 10 miles per hour when within 300 feet of bathers, small boats, or established boat landings.

SETTLEMENT OF TRESPASS CASES—CIVIL CASES

REG. T–10. The forest supervisor, when authorized by the regional forester, may settle any innocent or unintentional trespass involving a claim for not more than $300. The regional forester may settle any trespass involving a claim for not more than $3,000. The Chief of the Forest Service may settle any trespass involving a claim for not more than $5,000. Any trespass involving a claim for more than $5,000 will be referred to the Secretary of Agriculture. All civil trespasses requiring the institution of legal proceedings will be reported through the Chief of the Forest Service to the Secretary of Agriculture for reference to the Attorney General for action.

CRIMINAL CASES

REG. T–11. Criminal trespasses, except those prosecuted under State laws and Federal cases requiring immediate action or of minor importance, will be reported through the Chief of the Forest Service to the Secretary of Agriculture for reference to the Attorney General for action.

IMPOUNDING OF LIVESTOCK

REG. T–12. Livestock found trespassing on national forest land or any other lands under the control of the Forest Service if not removed upon reasonable notice may be impounded by the forest officers. No livestock will be impounded until known owners of the livestock are given written notice of intention to impound and at least 15 days have elapsed from the date notice is first posted at the county courthouse and published in a newspaper serving the community within or adjacent to the area on which the trespass is occurring, provided, that if all owners are known and are given written notice advertising and posting may be dispensed with. Such notices shall state the kind of livestock and the area on which it is trespassing, that it will be impounded on or after a specified date, and when impounded will be sold in default of redemption by the owner. No sale will be made until five days have elapsed from the date the livestock was impounded. If the stock be not redeemed on or before the date fixed for its sale, it shall be sold at public sale to the highest bidder. If no bid is received, in the discretion of forest officers the stock may be sold at private sale or be condemned and destroyed or otherwise disposed of. The owner may redeem the stock by submitting proof of ownership and paying all expenses incurred by the United States in advertising, gathering, pasturing, and impounding it. Upon the sale of any stock in accordance with this regulation the forest officer shall issue a certificate or bill of sale.

REG. T–13. In all livestock trespasses on the national forests the value of the forage consumed will be computed at the daily, monthly, or yearly commercial rates prevailing in the locality for the class of livestock found in trespass.

In addition to the damages to national forest property injured or destroyed and in order to compensate the United States fully for any loss resulting from trespass by livestock, a charge may be made and added to the value of the forage consumed which shall include the pro rata salary of the forest officers for the time spent and the expenses incurred in and about the investigations, reports, and prosecution of the case.

PUBLIC RELATIONS

REG. PR–1. Forest officers are authorized to attend meetings of forest users or of citizens or organizations when such attendance is called for in the interest of public use of the forests or of their administration and protection, and when the place of meeting is within the territorial field of duty to which the forest officer is assigned, in accordance with the general or specific instructions given him by his superior officer. For attendance at meetings held outside the territorial field of duty of the forest officer specific instructions must be secured in advance.

REG. PR–2. Forest officers are authorized to attend meetings for the purpose of giving informational talks, lectures, or addresses relating to forestry when the place of meeting is within the territorial field of duty to which the forest officer is assigned and when the cost of attendance is of minor character, in accordance with the general or specific instructions given him by his superior officer. If travel outside the territorial field of duty is involved, special instructions must be received. If a considerable cost is involved, special instructions must be received unless attendance at the meeting is in the line of regular duty of the attending officer.

The Chief of the Forest Service is hereby authorized and directed to issue such instructions to the officers and employees of the Forest Service and to establish such procedure for the guidance of the users of the National Forests as may be necessary to carry these regulations into effect.

In testimony whereof I have hereunto set my hand and official seal this 12th day of August 1936.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 1721—Filed, August 13, 1936; 12:43 p.m.]

FEDERAL POWER COMMISSION.

Commissioners: Frank R. McNinch, Chairman; Basil Manly, Vice Chairman; Herbert J. Drane, Claude L. Draper, Clyde L. Seavey.

[Project No. 516]

ORDER SETTING HEARING

LEXINGTON WATER POWER COMPANY

The following order was adopted:

It apearing to the Commission:

(1) That there is pending before the Commission a proceeding to determine the actual legitimate original cost of construction, as of June 30, 1932, of Project No. 516, Lexington Water Power Company, Licensee; that hearings have been held thereon, and that the evidence before the Commission is insufficient with respect to certain items of claimed cost designated in the preliminary accounting report as Adjustment No. 8—Cost of Railroad Right of Way, and Adjustment No. 13 (m)—Payments to H. C. Hopson or H. C. Hopson and Company, Inc;

(2) That there is also pending before the Commission an application filed by the Licensee on January 16, 1934, petitioning the Commission to amend the license to cover the railroad, its appurtenances and right of way from the C. N. & L. R. R. to the power house of the Licensee, as shown on tracing accompanying said application, but the Commission has before it no evidence in support of the application to amend the license;

(3) That no part of the cost of said railroad can be included in the cost of said project, or the question presented by Adjustment No. 8 adjudicated, until the Commission has heard and passed upon the application to amend the license;

(4) That due to the affiliation between H. C. Hopson and the Licensee, as disclosed by the record, no payments to H. C. Hopson or H. C. Hopson and Company, Inc., for services rendered Licensee will be included as a part of the cost of the project until the Commission has before it evidence of the cost of rendering said services and the necessity therefor, and the record before the Commission contains no such evidence with reference thereto.

Now, therefore, it is *ordered:*

That a joint hearing on the above items of claimed cost and on the application to amend the license be held in the Commission's hearing room, Carpenters Building, 1003 K Street NW., Washington, D. C., at 10 a. m. on September 17, 1936.

Adopted by the Commission on August 4, 1936.

[SEAL] LEON M. FUQUAY,
Acting Secretary.

[F. R. Doc. 1727—Filed, August 14, 1936; 9:24 a. m.]

Commissioners: Frank R. McNinch, Chairman; Basil Manly, Vice Chairman; Herbert J. Drane, Claude L. Draper, Clyde L. Seavey.

[Project No. 16]

POSTPONEMENT OF HEARING

NIAGARA FALLS POWER COMPANY

The Commission adopted the following order:

The Commission having on June 2, 1936,[1] fixed September 14, 1936, as the date for hearing upon application of The Niagara Falls Power Company for amendment of license for project No. 16 on the Niagara River, so as to include therein authority to divert an additional 275 cubic feet of water per second through said project; and

The Department of Law of the State of New York having by letter dated July 20, 1936, requested a postponement of said hearing from September 14, 1936, and such postponement being agreeable to attorneys for licensee:

Now, therefore, good cause appearing, it is *ordered:*

That the hearing previously set in said matter for September 14, 1936, be and it is hereby postponed until 10 a. m. Monday, September 21, 1936, at the Commission's hearing room, 8th floor, Carpenter's Building, 1003 K Street, Washington, D. C.

Adopted by the Commission on July 28, 1936.

[SEAL] LEON M. FUQUAY,
Acting Secretary.

[F. R. Doc. 1726—Filed, August 14, 1936; 9:24 a. m.]

Commissioners: Frank R. McNinch, Chairman; Basil Manly, Vice Chairman; Herbert J. Drane, Claude L. Draper, Clyde L. Seavey.

ORDER FIXING DATE FOR RESUMPTION OF HEARING IN RE BERNARD FRANCIS BRAHENEY ET AL, UNDER SECTION 305 (b)

In the matter of the applications of:

ID No. 268, Bernard Francis Braheney, Chicago, Illinois.
ID No. 274, Joseph Hamilton Briggs, Chicago, Illinois.
ID No. 369, Harry Williams Fuller, Chicago, Illinois.
ID No. 385, Robert Joseph Graf, Chicago, Illinois.
ID No. 393, William J. Hagenah, Chicago, Illinois.
ID No. 515, Paul August Lehmkuhl, Chicago, Illinois.
ID No. 525, Bernard William Lynch, Chicago, Illinois.
ID No. 444, James Joseph Madden, Chicago, Illinois.
ID No. 446, Walter Joseph Maloney, Chicago, Illinois.
ID No. 471, Matthew Aloysius Morrison, Chicago, Illinois.
ID No. 539, John J. O'Brien, Chicago, Illinois.
ID No. 545, J. F. Owens, Oklahoma City, Oklahoma.
ID No. 750, T. B. Wilson, Louisville, Kentucky.
ID No. 291, Orja Glenwood Corns, Chicago, Illinois.
ID No. 250, Albert Sheldon Cummins, Chicago, Illinois.
ID No. 239, Henry Clinton Cummins, Chicago, Illinois.

for orders of approval authorizing their holding of interlocking positions, as required by Section 305 (b) of the Federal Power Act;

Hearing on said matter having begun on May 4, 1936, and then continued without definite date for resumption of the hearing;

It is now ordered by the Commission that hearing on said applications be resumed on Wednesday, September 16, 1936, at 10 a. m., in the Commission's hearing room, Carpenters Building, 1003 K Street NW., Washington, D. C.

Adopted by the Commission on August 4, 1936.

[SEAL] LEON M. FUQUAY,
Acting Secretary.

[F. R. Doc. 1728—Filed, August 14, 1936; 9:24 a. m.]

[1] 1 F. R. 606.

INTERSTATE COMMERCE COMMISSION.

NOTICE

TO ALL CONTRACT CARRIERS OF PASSENGERS OR PROPERTY BY MOTOR VEHICLE SUBJECT TO SECTION 218 OF THE MOTOR CARRIER ACT, 1935

AUGUST 11, 1936.

Attached hereto is a copy of the Commission's order of July 11, 1936 (corrected),[1] relative to the publication, filing, and posting of copies of written contracts and memoranda of oral contracts by contract carriers subject to the jurisdiction of this Commission.

1. The publication, posting, and filing of written contracts and memoranda of oral contracts must conform to the following requirements set forth in—

Tariff Circular MF No. 1

[Applying to property carriers]

Rule 1.—Only that part that provides the size, method of reproduction, legibility, margin, and transmittal requirements.

Rule 2 (a).—As to the numbering of documents and cancellation of previous filing.

Rule 2 (c).—Only that portion which provides that the name of a carrier must be the same as that appearing in its application for a permit. In the event of a successor the name of the successor must be shown as successor to ---------- (the original applicant) as follows:

Example: John Doe and William Doe (Successors to A. B. C. Transportation Co.)

If a carrier is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

Example: John Doe and William Doe doing business as A. B. C. Transportation Co.

Rule 3 (c).—In reference to use of abbreviations, etc.

Rule 3 (e).—As to the explicit statement of rates.

Tariff Circular MP No. 2

[Applying to passenger carriers]

Rule 1.—Only that part that provides the size, method of reproduction, legibility, margin, and transmittal requirements.

Rule 2 (a).—As to the numbering of documents and cancellation of previous filing.

Rule 2 (c).—Only that portion which provides that the name of a carrier must be the same as that appearing in its application for a permit. In the event of a successor the name of the successor to ---------- (the original applicant) as follows:

Example: John Doe and William Doe (successors to A. B. C. Transportation Co.)

If a carrier is not a corporation and a trade name is used, the name of the individual or partners must precede the trade name.

Example: John Doe and William Doe doing business as A. B. C. Transportation Co.

Rule 3 (b).—In reference to use of abbreviations, etc.

Rule 3 (c).—As to the explicit statement of rates.

2. Copies of written contracts and memoranda of oral contracts with title page attached thereto must be of a size 8 by 11 inches. (See Rule 1 (a), Tariff Circulars, MF No. 1 and MP No. 2.)

3. A title page must be attached to each of the three copies of written contracts or memoranda of oral contracts submitted to the Commission for filing and to each of the copies posted and kept open for public inspection in accordance with Rule 6 of Tariff Circulars MF No. 1 and MP No. 2. This title page must show the docket number assigned the carrier's application for a permit.

[1] 1 F. R. 888.

4. The title page of all copies of each written contract or memorandum of an oral contract, filed for the purpose of replacing a schedule now effective, must be numbered consecutively in the carrier's present MF or MP I. C. C. series.

5. No supplement may be filed to copies of written contracts or to memoranda of oral contracts on file with the Commission, except to cancel such documents. When a change is to be made in any such contract, copies of the new written contract or memorandum of oral contract must be issued and filed under a new MF or MP I. C. C. number, specifically providing for the cancellation of the previous document.

6. All copies of written contracts and memoranda of oral contracts must be filed with the Commission and posted for public inspection on or before October 1, 1936, to be made effective on date filed. The filing of subsequent contracts which have the effect of reducing rates, fares, charges, etc., of contracts already in effect and on file with the Commission must be at least thirty (30) days prior to the effective date of such contracts, unless otherwise authorized by the Commission; that is, such documents must be in the Commission's offices at Washington, D. C., at least 30 days before the effective date.

7. The filing of copies of written contracts and memoranda of oral contracts will effect the cancellation of the schedules now on file with the Commission, and, therefore, it will not be necessary that cancellation supplements be issued to the present effective schedules of minimum rates and charges.

8. As information and guidance in complying with paragraph (3) above, there is attached hereto a sample of the title page which is to be attached to each copy of a written contract or memorandum of an oral contract.

[SEAL] GEORGE B. McGINTY, *Secretary.*

------ I. C. C. No. ------

No Supplement to this document will be issued except for the purpose of cancelling this document.

---------- doing business as
(Name of Contract Carrier)

(Show here trade name if any)

(Here show whether Copy of Written Contract or Memorandum of Oral Contract)

between ----------
(Name of Contract Carrier)

doing business as ----------
(Show here trade name, if any)

and ---------- Applying on Movement of
(Name of Shipper)

(Property carriers should here insert a description of the articles to be transported under terms of the contract. Passenger carriers should insert the word "Passengers.")

(Here insert a brief description of the territory or points covered by the Contract.)

Issued ----------.
Effective ----------.

Issued by (Name and Address of Officer of Contract Carrier filing the document) ----------

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Docket No. ----------.
(Application Number)

[F. R. Doc. 1736—Filed, August 14, 1936; 12:16 p. m.]

[Fourth Section Application No. 16471]

YARN FROM TRUNK LINE AND NEW ENGLAND TERRITORIES TO THE SOUTH

AUGUST 14, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act,

Filed by: W. S. Curlett and Frank Van Ummersen, Agents, pursuant to Fourth Section Order No. 9300.
Commodities involved: Yarn, worsted, any quantity. Yarn, woolen (worsted), any quality.
From: Points in Trunk Line and New England territories.
To: Slater and Travelers Rest, S. C., and Fort Payne, Ala.
Grounds for relief: Carrier competition.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. McGINTY, *Secretary.*

[F. R. Doc. 1732—Filed, August 14, 1936; 12:15 p. m.]

[Fourth Section Application No. 16472]

LOGS AND LUMBER TO THE SOUTH

AUGUST 14, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act:

Filed by: W. S. Curlett, Agent, pursuant to Fourth Section Order No. 9300.
Commodities involved: Logs and/or lumber, mahogany, carloads, veneer, mahogany, carloads.
From: Carteret, N. J., and Philadelphia, Pa.
To: Points in the South.
Grounds for relief: Carrier competition.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. McGINTY, *Secretary.*

[F. R. Doc. 1733—Filed, August 14, 1936; 12:15 p. m.]

[Fourth Section Application No. 16473]

BLACKSTRAP MOLASSES FROM POINTS IN THE SOUTH TO CINCINNATI, OHIO

AUGUST 14, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act,

Filed by: B. T. Jones, Agent.
Commodities involved: Molasses, blackstrap, in tank cars, carloads.
From: New Orleans, La., and other Louisiana points and Mobile, Ala.
To: Cincinnati, O.
Grounds for relief: Circuitous routes. Routes north of the Ohio River desire to compete with routes south of said river.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. McGINTY, *Secretary.*

[F. R. Doc. 1734—Filed, August 14, 1936; 12:15 p. m.]

[Fourth Section Application No. 16474]

GRAVEL FROM READING, MO., TO BASCO, ILL.

AUGUST 14, 1936.

The commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act,

Filed by: R. A. Sperry, Agent.
Commodities involved: Gravel, road surfacing, carloads.
From: Reading, Mo.
To: Basco, Ill.
Grounds for relief: Truck competition.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. MCGINTY, *Secretary.*

[F. R. Doc. 1735—Filed, August 14, 1936; 12:15 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

ALLOCATION OF FUNDS FOR LOANS

ADMINISTRATIVE ORDER NO. 11

AUGUST 13, 1936.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loan for the project and in the amount as set forth in the following schedule.

Project Designation:	*Amount*
Alabama–18–Cullman (Additional)	$36,000

MORRIS L. COOKE, *Administrator.*

[F. R. Doc. 1729—Filed, August 14, 1936; 9:24 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of August A. D. 1936.

[File No. 2–1690]

IN THE MATTER OF ELECTRIC SMELTERS, INC.

ORDER FIXING EFFECTIVE DATE OF AMENDMENTS TO REGISTRATION STATEMENT AND DECLARING STATEMENT AMENDED IN ACCORDANCE WITH STOP ORDER

This matter coming on to be heard by the Commission upon the registration statement filed by Electric Smelters, Inc., of Dover, Delaware, on October 4, 1935, and upon amendments to said registration statement filed by said registrant on October 19 and November 4, 1935, and February 1, March 25, May 19, and July 24, 1936, and the Commission having duly considered the matter and now being fully advised in the premises,

It is declared, that said registration statement has been amended in accordance with the Stop Order issued on February 11, 1936,

It is ordered, that said Stop Order shall cease to be effective,

It is further ordered, that the amendments filed on February 1, March 25, May 19, and July 24, 1936, shall become effective on August 12, 1936.

Attention is directed to Rules 800 (b) and 970 of the General Rules and Regulations, relating, respectively, to the requirements for the filing of twenty copies of the actual prospectus used and statement of price at which securities were actually offered.

Attention shall be directed to the provisions of Section 23, Securities Act of 1933, which follow: "Neither the fact that the registration statement for a security has been filed or is in effect nor the fact that a stop order is not in effect with respect thereto shall be deemed a finding by the Commission that the registration statement is true and accurate on its face or that it does not contain an untrue statement of fact or omit to state a material fact, or be held to mean that the Commission has in any way passed upon the merits of, or given approval to, such security. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing provisions of this section."

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 1738—Filed, August 14, 1936; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of August A. D. 1936.

[Filed on July 22, 1936]

IN THE MATTER OF KENT K. KIMBALL, OFFERING SHEET OF A ROYALTY INTEREST IN CENTRAL-BENSO "A" FARM

ORDER FOR CONTINUANCE (UNDER RULE 340 (B))

The Securities and Exchange Commission having been requested by its Counsel for continuance of a hearing in the above entitled matter, which matter was last set to be heard at 10:00 o'clock in the forenoon of the 12th day of August 1936, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and it appearing proper to grant the request;

It is ordered that the said hearing be continued to 10:00 o'clock in the forenoon of the 26th day of August 1936, at the same place and before the same Trial Examiner.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 1742—Filed, August 14, 1936; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 13th day of August A. D. 1936.

[Filed on July 22, 1936]

IN THE MATTER OF SOUTHWEST ROYALTIES COMPANY OFFERING SHEET OF A ROYALTY INTEREST IN KANOKA-GIFFIN FARM

ORDER FOR CONTINUANCE (UNDER RULE 340 (B))

The Securities and Exchange Commission having been requested by its Counsel for continuance of a hearing in the above entitled matter, which matter was last set to be heard at 11:00 o'clock in the forenoon of the 12th day of August 1936, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and it appearing proper to grant the request;

It is ordered that the said hearing be continued to 11:00 o'clock in the forenoon of the 26th day of August 1936, at the same place and before the same Trial Examiner.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 1743—Filed, August 14, 1936; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of August A. D. 1936.

[Filed on July 3, 1936]

IN THE MATTER OF AN OFFERING SHEET OF A WORKING INTEREST IN THE BEAUDOIN-BRIDGES FARM, BY CLAUDE E. DELAPP, DOING BUSINESS AS NATIONAL INVESTMENT CO., RESPONDENT

ORDER TERMINATING PROCEEDING (UNDER RULE 340) THROUGH AMENDMENT

The Securities and Exchange Commission finding that the amendments to the offering sheet which is the subject of this proceeding filed with the said Commission are so far as necessary in accordance with the suspension order previously entered in this proceeding:

It is ordered, that the amendment dated July 31, 1936, and received at the office of the Commission on August 3, 1936, to Division II of the said offering sheet be effective as of August 3, 1936; and

It is further ordered, that the Suspension Order, Order for Hearing and Order Designating a Trial Examiner entered in this proceeding on July 10, 1936, be and the same hereby are revoked and the said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 1740—Filed, August 14, 1936; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of August A. D. 1936.

[Filed on July 7, 1936]

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE MOORE-MCKOY LEASE, BY E. FRIEDMAN, DOING BUSINESS AS THE ROLES COMPANY, RESPONDENT

ORDER TERMINATING PROCEEDING (UNDER RULE 340) THROUGH AMENDMENT

The Securities and Exchange Commission finding that the amendments to the offering sheet which is the subject of this proceeding filed with the said Commission are so far as necessary in accordance with the suspension order previously entered in this proceeding:

It is ordered, that the amendment dated August 10, 1936, and received at the office of the Commission on August 11, 1936, to Division III of the said offering sheet be effective as of August 11, 1936; and

It is further ordered, that the Suspension Order, Order for Hearing, and Order Designating a trial examiner entered in this proceeding on July 14, 1936, be, and the same hereby are revoked and the said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 1741—Filed, August 14, 1936; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of August A. D. 1936.

[Filed on July 23, 1936]

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE BURRIS B FARM, BY H. B. SEARS, RESPONDENT

ORDER TERMINATING PROCEEDING (UNDER RULE 340) THROUGH AMENDMENT

The Securities and Exchange Commission finding that the amendments to the offering sheet which is the subject of this proceeding filed with the said Commission are so far as necessary in accordance with the suspension order previously entered in this proceeding:

It is ordered, that the amendment dated August 8, 1936, and received at the office of the Commission on August 11, 1936, to Division II of the said offering sheet be effective as of August 11, 1936; and

It is further ordered, that the Suspension Order, Order for Hearing, and Order Designating a Trial Examiner entered in this proceeding on August 3, 1936, be and the same hereby are revoked and the said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F.R. Doc. 1739—Filed, August 14, 1936; 12:43 p. m.]

Tuesday, August 18, 1936 *No. 112*

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

NEW MEXICO GRAZING DISTRICTS NOS. 4 AND 5

MODIFICATION

AUGUST 7, 1936.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), and subject to the limitations and conditions therein contained, New Mexico Grazing District No. 5 as established by order approved April 8, 1935, is hereby modified to include also within its exterior boundaries the following described lands, which are hereby transferred from New Mexico Grazing District No. 4:

NEW MEXICO MERIDIAN

T. 19 S., R. 9 E., secs. 23, 24, 25, 26, 35, and 36, and those parts of secs. 22, 27, and 34, east of Southern Pacific Railroad.
T. 19 S., R. 10 E., S½ sec. 10, sec. 11, W½ sec. 12, secs. 13 to 15, and secs. 19 to 36, inclusive.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 1746—Filed, August 15, 1936; 9:45 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-33—O-33]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER REGULATING THE HANDLING OF MILK IN THE FORT WAYNE, INDIANA, MARKETING AREA

Whereas, under the Agricultural Adjustment Act, as amended, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of Title I of the Agricultural Adjustment Act, as